THE SECOND PART OF THE SVRVEY OF THE ARTICLES OF THE LATE REIECTED PEACE

WHERIN THE INVALIDITIE AND NVLLITIE OF THE SAID PEACE IS PROVED.

1. By the revocation of the Marques of Ormonds *Commission before any Peace was legally concluded &c. 2. By the defect of sufficient Commission or authoritie on the part of our Committee of the Treaty. 3. By the revocation thereof by the Protestation of the principall part of the Body Politique of the Kingdome and other Inhibitions. 4. By exceeding their Commission. 5. By deviating from the rules established by assembly, by which they ought to regulat themselves, namely, from the Oath of Association, Modell of government, Acts of Assembly, Grievances, Declarations, and Propositions made by the Kingdome to His Majestie, &c. 6. By rejecting the Kings favours and graces. 7. By their surreptitious and clanculer concluding of a Peace contrary to their promise made unto the Lord Nuncius. 8. By the Kingdoms non acceptance thereof; 9. By theire violation of the publike faith of the kingdome past by Solemne Contract unto the L. Nuncio 19 February 1645.*

Whence the Iustice of the Clergies Decree of Perjurie, and excommunication against the Adherents to so impious and invalid a Peace, is evidently deduced.

CAMBRIDGE UNIVERSITY 1886 BRADSHAW COLL. LIBRARY

By *Walt. Enos* Dublinian, Priest, D. of Divinitie & treasurer of Ferns.

Viri foederis tui illuserunt tibi, invaluerunt adversum te viri pacis tuæ. Abdiæ c. 1.

Printed at Kilkenny, by permission of Superiors, and approbation of Schoolemen in the yeare, 1646.

THE SECOND PART

OF THE SURVEY

OF THE ARTICLES

OF THE LATE

PEACE

REJECTED

WHEREIN THE INVALIDITY

AND NULLITIE

OF THE SAID PEACE IS PROVED.

07-1225

MANDATVM ILLVSTRISSIMI NVNCII ET CONGREGATIONIS ECCLESIASTICI VTRIVSQVE CLERI REGNI HIBERNIÆ.

NOs Ioannes Baptista Rinuccini, archiepiscopus & Princeps Firmanus apud Hibernos Confœderatos Nuncius apostolicus extraordinarius, necnon uenerabilis Congregatio utriusque Cleri Regni Hiberniæ, uobis RR. PP, quorum nomina inferius Scripta sunt, & cuilibet uestrum, facultatem facimus, & per præsentes pariter mandamus, ut post diligentem perlectionem secundæ partis libelli, cui titulus est (a survey of the articles of the late reiected peace) *ab eximio Domino & Magistro Gualtero Enos S. T. Doctore de mandato nostro compositi, censuram uestram & calculum pro qualitate & vtilitate operis eidem apponatis, adeoque confirmetis & corroboretis, ut qui ante Autoris argumenta de iniquitate reiectæ pacis in primâ parte proposita comprobastis, modò eiusdem argumenta in hac secundâ parte de inualiditate dictæ pacis proposita uicissim comprobetis, ut uel inde iustitia nostrorum decretorum contra Authores eiusdem pacis orbi terrarum innotescat. Datum Kilkenniæ 18. Ianuary 1646.*

Ioannes Baptista Archiepiscopus
Firmanus Nuncius Apostolicus.

THe touchstone of discouering an act to be invalid is the law: the Author sincerly conferrs the treaty of peace with the Maximes of law, and finds the same lawlesse, consequentlie inualid and not obliging. This survey inge nuouslie traced ouer the iniquitie of the peace, and plainly proues the inualiditie. his worke is learned, meritorious, and intended for our good, according lie I approue it

FR. PATRICKE PLVNKET.
Abbot of St. Maries Abey of Dublin, diffinitor & late president generall of the Congregation of St. Malachias, and St. Bernard in Ireland.

THis Second parte of Doctor Enos his survey &c. deserues no less credit and acceptance then was attributed to the first parte by the not praiudicasing opinion of

Tho. Roth. Deane and Vicar Generall of Ossory

I Am of the same opinion.

NICOLAVS TAYLOR,
Sacræ Theol. Doct. Protonotar.
Apostolicus & Rector Eccl de Swords.

HAuing perused this second part of the Survey of the late reiected peace, I thinke it to be noe lesse worthy of publique view, then the first, it beinge a plaine discouerie of the inualiditie thereof. It needes therefore noe other shew, to purchase a publique welcome, then the name of its lerned author walter Enos Doctor of diuinitie. Ita censeo

IOANNIS SHEE THEOL.
Præb. de Main, & Vicarius Sancti
Ioannis Evangelistæ

IN obedience to the forsaid, mandat we haue with diligence reade and perused this second part of the forsaid Survey, wherin we finde nothing dissonant to faith or good manners, but very many things conduceing to the honour and safetie of faith and Religion, wherefore, as in the first part we approued the Authors arguments prouing the iniquitie of the late reiected peace so we approue his arguments produced in his second part to proue the inualiditie of the same peace: and accordinglie we censure it no lesse worthy, than necessarie to be exposed to publike view. Dated at Kilkenny the 27. th of January 1646.

Fr. Hugh Duigin suprior of the Frs Preachers of Kilkeny
Fr. Fælix Connor S. T. Professor.
Fr. Iohn. O Haire S. T. Professor

EX *Commissione supradictâ accuratè Legimus hanc secundam partem in qua tibi orthodoxa fidei dissonum reperitur, quin potius pro ea acerrimè certat. Hoc opere, suo solito more, author animo calamoque potens*, delitescentem alto puteo veritatem extrahit: eaque in sua basi exposita opposita Commenta vsurpato limine deturbat. *Sic censemus in hoc Cœnobio Sancti Francisci Kilkeniæ Kalendis February. 1646*

Fr. Antonius MacGeogheganus.
Exprouincialis Hyberniæ.
Et Guardianus KilKennienſis.
Fr. Paulus King *S. T.* Lector

VVE doe finde that the learned and zealous author accordinge to his groundes and principles doth well shew and proue the inualiditie of the pope he treates of.

William Saint Leger
Iohn Mac Egan.

To the right honourable the Lords, Knights, Cittizens and Burgesses of the Confederat Catholikes of the Kingdome of Ireland assembled together at Kilkenny.

Enowned Catholikes

R

A peace contained in 30. Articles made ad published at Dublin 29. Julij 1646, being put vnder the consideration of the Venerable Congregation of the Clergie at Waterford in August last, was found vnsafe for Religion, contrie, and the liues and liberties of the Confederat Catholickes, the fortes and gouernment of this Kingdome being (by that peace) to come vnder an other power and that of an aduerse Religion. Some cri'd vp this peace as a blessing from God, and the period of fire, warre, and desolation, and though it was reputed a blessing, yet was an army a preparing to enforce it vpon vs: others, (who look'd neerer vnto it) said it would proue fatall to Ireland and Religion, and vnexpectedlie a great army (as it were of mē risen out of the Earth) came from the North to oppose it. While the Souldier had sword in hand to proscribe this rotten

peace

peace, my Superiours put a pen in my hand, by way of suruey to lay open to the world the *iniquitie and inualiditie* thereof. The first part of this Suruey [containing the *iniquitie*] I dedicated to the right Reuerend Prelats and Congregation: the second part (speaking the inualiditie of it) I addresse with all humilitie and candor to the power and great wisedome of this assemblie. I will say with S. Paul; *ueni non in sublimitate sermonis aut Sapientiæ*: my language is low, my conceptions plaine, my thoughts the best to Religion and Contry. I doubt not, many iudgements will pass vpon me: some will terme me precipitant, others hott, and others bitter; I can giue to all the answere of S. Paul: *si hominibus placerem, Christi seruus non essem.* Nor are my lines to feede mens humour, but with reasons to ouercome theire vnderstanding. I may be precipitant out of weaknes of reason, and hot out of frailtie of nature. but bitter I am not out of malice. If the purgation proue bitter, the Patient may not blame the nature of his Phisician, but the malignant nature of his owne disease. Renowned Catholikes, Religion and Ireland are vnder your hands; you haue it in your power next God, to kill or saue both. I know, you all intend to make a peace;

1. Cor. 2.

Gal. 1.

let in

let it be a good one; I haue remoued a blocke out of your way, I meane that vniust, inualid coloured peace: vniō is the onely way to make a good peace, or a good warre; vnion will saue you, and diuision will destroy you. My prayers shall euer be, *ut pacis & non dissentionis Deus* may be euer with you.

I am your most humble seruant
Walter Enos.

Aduertisments to the Reader.

First note, that the worke is compleat; though the pages 36. and 41. meete not together, because the worke was printed in seuerall places. 2. the number of ministers Coates mentioned pag. 12. n. 11, are but. 4. surplisses. 7. and so many Robes for Doctors; they resolued to walke in station to possesse our Churches. 3. the Lawyer mentioned pag. 117. n. 76. is not learned Mr. Darcy, but Mr. T. T. 4. If lay men should take upon them to Censure this worke, which hath beene approued by the Clergie, thei are excommunicated in bulla cœnæ, see Tolet. excom. 9. Trid. sess. 23. c. 23. de Reformat. totam dist. 96. & .11. q: 1. authent. vt Cleri proprios iudices conueniant. *collat. 6. yet is it left free to any man to refute (if he can) the arguments produced by the Author.*

THE SECOND PART
OF THE SVRVEY
OF THE
Articles of the late rejected Peace: wherein the invaliditie and nullitie of the said Peace is evidently proved out of many heads or causes.

CAMBRIDGE UNIV. 1936 BRADSHAW

1. IN the first part of this Survey we proved the injustice and iniquitie of the said Peace by notable observations on each, or most of the Articles included in the same peace. In this second part wee further proceede to prove also the invaliditie, and nullitie thereof out of those heads or causes, which are expressed in the lawes, and accepted as generall Maximes among Divines and Lawyers; to the end the Catholique Confederates may be rightly enformed how farre they are exempted from any obligation to embrace such a Peace, in the contriving whereof injustice accompanied with nullitie, had full and perfect concurrence. As in other Contracts, so in Contracts past by *mandate* or *Comission*, the nullitie and invaliditie thereof is derived from many sources or heads. Six are principally enumerated by Schoolemen *in contractu mandati*; and among those six, that nullitie or invaliditie, which proceeds from the *revocation of* their *Commission*, that have power to treate & conclude the contract, before they have concluded any such Contract, hath a prime place. That the like *revocation of the Commissions or mandates* given to the Marques of *Ormond*, and to our Committee of the Treatie hath hapned in the concluding of this Peace, before the same was concluded, is the point (among other) which we are to prove in the following paragraphes. In the

Azor. Instit. moral. par. 3. l. 9. c. 7. Filliuc. to. 2. tr. 39. cap. 2.

§. 1. *The invalidity of the foresaid Peace is proved by the revocation of the Marques of Ormonds Commission given him to conclude a Peace, before the same was concluded.*

2 THis invalide and unjust Peace was indeed *signed and sealed* by five of our Committee on the 28. of *March* 1646. but never *DELIVERED* interchangeably by both parties untill the 29. of *July* following: during the interjacent time it lay, as an Escroule or Scroule on the hands of the Marques of *Clanrickard* without any power or force to oblige in law either parties. Though this be a truth confessed in private by the Committee of Treatie, and well knowne to the then Supreme Councell and Committee of Instructions, yet because the knowledge thereof is suppressed from the rest of the Confederate Catholiques, and that the Peace hath beene published, as if the same were absolutely concluded on the 28. of *March*, I here thinke fit to discover the *mysterie of iniquitie* out of that, which I finde written by *Mr. Darcyes* owne hand, (one of the five that signed and delivered the said Peace) on the out-side of the manuscript draught of the articles of Peace delivered by *Mr. Plunket* & himselfe in *Waterford* to the Congregation of both Clergies; *Signed and Sealed ONLY* (note the exclusive partticle ONLY) 28. *March* 1646. *anno* 22. *Regis Caroli, in the presence of the Lord Digby, Sir Maurice Eustace, Doctor Fennell, and George Lane. and DEPOSITED on the Marques of Clanrickards hands till* 1. *May, and untill the ten thousand be sent into England.* Thus farre one note. In another note there written, I reade thus: *This* (meaning the Articles of Peace) *was DELIVERED* 29. *July* 1646. *in my Lords STVDY, by my Lord Lieutenant on the one part: Lord of Muskery, Sir Robert Talbot, John Dillon, Patricke Darcy, and Geofrey Brulne of the other part, witnessed by the Marques of Clanrickard, Lord Taaffe, Lord Digby, Monsieur du Moulin the French Agent, and Daniel O Neale. Present besides, the Earle of Roscoman, Lord Dillon, Colonell Trafford, and George Lane, &c.* on the same 29. day of *July*, and not before, *the defeasance*, which

past

past betweene the Marques of *Ormond* and our Committee, obliging the kingdome to send over 10000. men, were *cancelled, and an Instrument avoyding the defeazance then perfected & witnessed, ut supra*, saith a third note written also by *Mr. Darcyes* owne hand on the foresaid manuscript Copie.

3. By all which it appeareth that the Peace was never concluded untill the 29. of *July*, and that both parties did suppose the same for a certaintie, aswell because they never cancelled the foresaid defeazance untill the foresaid 29. day of *July*, as also because the Marques of *Ormond*, having before that day received His Majesties letter revoking his Commission, supposing himselfe not to be obliged by any act, that passed on the 28. of *March*, rejected our Committee of Treatie, and would by no meanes proceede to the conclusion of the foresaid peace, affirming that his Commission was recalled and that he had no authoritie to treate further with them; as you shall heare as yet more hereafter. This is further confirmed by the letters of the late Supreme Councell and Committee of Instructions dated at *Lymericke* the first of *June* 1646. delivered unto the Lord *Nuncius*, where they confesse the Peace was not then *concluded*, but that *shortly they expected the same to be* both *concluded and published*.

4. We presse the matter as yet more eagerly: they concluded the Peace, either on the 28. of *March*, or on the 29. of *July*: If the later, wee have our intention; namely, that they concluded the Peace after the Marques his Commission was recalled, which was the eleventh of *June* before: if the former; then were our Councell and Committees violators of their promise made to His Holynesse His Nuncius Apostolique, and perfidious to the whole kingdome, which in publique assembly promised and agreed, that nothing should be concluded or agreed upon untill *May* following. Such as are meanely versant, either by study or practise in the lawes of this kingdome, know that an obligation past by a Debtor unto his Creditor, though *Signed and Sealed* this moneth, yet bindeth not then, nor ever after, unlesse he also DELIVER the same obligation, and then onely, and not before, it beginneth to oblige, when the obligation, or bond is *delivered*: how much more in

See numb. 5.

our

our case, is it evidently convinced, that the rejected Peace began not to oblige until the time of the *deliverie* thereof, which was on the 29. of *July*, and not before; seeing that in our case, besides the defect of *deliverie*, the very *signing and sealing* it selfe was not absolute, but conditionally, that 10000. men should be sent over by the Catholique Confederats, and the Articles were not laid on the hands of either of both parties, but *deposited* on the hands of a third person? But in a truth so evident, & testified by so many witnesses, yea, confessed by the Committee of treaty themselves, we need not waste much time.

5. Wherfore we are to prove that the Marques of *Ormonds* Commission was recalled and revoked before the foresaid 29. day of *July*; for effecting whereof wee need no other evidence, than the Kings owne letter which we exhibit unto the Reader word by word, as it was written by His Majestie himselfe.

His Majesties Letter to the Marques of *Ormond*.

CHARLES R.

Right trusty, &c. Having long with much griefe looked upon the sad condition, Our Kingdome of Ireland hath been in these divers yeares through the wicked and desperate Rebellion there, *and the bloody effects have ensued thereupon, for the settling whereof wee would have wholly applyed our selves; if the difference betwixt us and our Subiects here had not diverted and withdrawn us, and not having been able by force (for that respect) to reduce them, Wee were necessitated for the present* safety of our Protestant subjects there, *to give you power and authority to treat with them, upon such pious, honourable, and safe grounds as the good of that Our kingdome did then require, But for many reasons too long for a letter, VVe thinke fit to require you to* proceed no further in Treaty with the Rebells, *nor to engage us upon any conditions with them after sight hereof, And having formerly found such* Reall proofes *of your ready obedience to our commands, Wee doubt not of your care in this; wherein our* service and the *good of our* Protestant subjects in Ireland, *is so much concerned. From* Newcastle *the* 11. *of* Iune 1646.

6. Out

6. Out of which letter, the Catholique Confederates may behold not onely the *revocation* of the Marques his Commission, but also the dangerous Condition, wherein they are, while His Majestie is forced by the Rebellious *Scot* as he must say, write and doe against His faithfull Subjects, what ever they please to suggest unto him. Here His Majesty is pleased to call us *Rebels*, and our warre *desperate Rebellion*; elsewhere (being freed from those Harpies) he calleth us His *faithfull Subiects*, upon whose succours (to rescue him from his present calamitie) he wholly depends, wherefore I exhort the Confederate Catholiques to stand well upon their guard, and to preserve securely in their owne possession and Command such Forts, Cities, Armes and Armies, as God hath prodigiously given unto them since these warres, least His Majesty (being forced by the *Scots*, or Parliamentaries) should subscribe to such Commands unto *Ormond*, as he subscribed unto *Montrosse* in *Scotland*, commanding him to lay downe Armes, and to yeeld unto the *Scots* such Cities & Forts as by his Armes hee recovered for His Majestie from them. That the Parliament hath and will endeavour to obtaine such Commands from the King, wee are premonished by the *Vote* made in the house of Commons of *England* 3. *July* 1646. where they order *that a letter should be drawne up to be sent to His Maiestie from both houses of Parliament, to desire His Maiestie to write to the Marquis of Ormond in Ireland to SVRRENDER up severall holds and places of strength in that kingdome possessed by his forces, to such hands, as both houses of Parliament shall nominate and appoint: And a Committee was named presently to draw up the said letter.* Now in case the King be forced to send such a Command unto the Marques; what assurance have the Confederate Catholiques that he will not forthwith yeeld obedience to such forced Commands (as he yeelded to the above letter) and deliver up unto the Parliament not onely what Cities, Townes, and Forts, hee hath in his owne Quarters, but also such Cities, Townes, Forts, Garisons Armies, and Magazins, as should be transferred to his government, Command and trust by the Confederate Catholiques? Its knowne, that the Marques is of the same profession with the Parliament; that since

§. 5. 6. Glamorgans Commission & Articles & letter 27. February.

these warres he hath continuall Commerce and mutuall correspondence with them; private letters, messages, and Agents past betweene him, the Parliament and the *Scots*; that hee never used any act of hostilitie against either; nay since the Clergy and their Adherents (the Confederate Catholiques) have opposed this Peace, he hath sent severall Agents aswell unto the *Scots*, as unto *Inchequin* and the Parliament, praying them to send him succours, and actually entertained some of the Parliament Commanders in *Dublin*, and intrusted them with places of Command with him that Citie; yea, had actually delivered not onely that Citie, but all other Cities and Forts &c. in his Quarters to the Parliament, if the Parliament vouchsafed to intrust him with the government of the kingdome, and to grant unto him such Conditions, as hee expected: for procuring whereof (it is thought) *Sir Francis Willoughby* (whom the Marques sent over before to the Parliament) is now gone over againe with the Parliament Commissioners to elaborate the busines. I appeale then to all disinteressed Divines, whether the Catholique Confederats may in such a case transferre from themselves (who have sworne allegiance and fidelitie to their Soveraigne, and particularly to keepe secure such Forts and Cities, &c. for His Majesties use) unto one so suspected, the government or Command of the same Cities, Forts, Armies, &c. seeing in so doing they doe probably hazard Religion, King, and Countrey. If neither Parliament nor *Scot* will intrust his Excellencie with the chiefe government of the kingdome, though hee be of their profession, nor entertaine him, as their servant, shall the Catholiques, (unto whose Religion he is a sworne Adversarie) intrust him not only with such a government, but also entertaine him, as their Lord and Master? This I speake not (God be my Iudge) for disrespect to so noble a personage, who (if hee followed the steps of his noble Catholique progenitors, and were disingaged from wicked Councell) might well deserve such honour; but to discharge my conscience in a matter of such importance, as concerneth the securitie of Religion, King and Countrey.

7. As this letter was dated, so was it delivered and communicated to the Lord Marques long before the 29. of *July*, when

when (and not before) the Peace was concluded; wherein I call as witnesses the conscience of those very noble persons, who concluded, and joyned in concluding this peace. Nay, the same hath beene confessed unto me even by some of them, that subscribed unto the peace. But the accompt, which *Mr. Browne* gave unto the late Supreme Councell at *Limericke* after his returne from *Dublin* in the month of *Iune* and his publicke narration or declaration of the answer received from the Lord Marques in *Dublin*, puts the question out of all doubt, wherein he declared that the Lord Marques his Commission was confessed by himselfe to have beene *recalled*, and that therefore he could conclude no peace with us. His returne then without effecting any thing, and the very originall letter above mentioned shewne to *Mr. Browne* and others by the Lord Marques, doth confirme it. The revocation communicated to the Marques before the 29 of Iuly.

8. It may be answered that the Lord *Digby* brought over some new Commission from *France* authorizing the Lord Marques to proceede in the peace. But this is as easily denyed, as it is affirmed without apparance of truth; it being most certaine (and so signified by letters from *Paris*, to the Councell and Congregation) that the Lord *Digby* never saw the king, nor received letters from the king, from the time he left *Ireland* untill he returned backe; how then could the Lord Marques his Commission be renewed? some letters are said to have been brought over by the Lord *Digby* in Cyphers, the interpretation whereof must be received from the Lord *Digby* onely. But this may carry as much truth as the former; and though it were true, yet have the Confederate Catholiques no reason to give credit (in a matter of such high concernment) to such Interpreters; but supposing all were true, it would never be able to render the peace concluded the 29. of *Iuly* valid; forasmuch as the same peace is grounded on the Commission given unto the Lord Marques 24. *Iunij* 1644. and the 20. yeare of His Majesties Raigne, which (as you have heard) was recalled before the foresaid 29. of *Iuly*, and not on the new imaginarie Commission brought over by the Lord *Digby*; wherefore if they would render the peace ought worth or of any validitie in law, they ought to ground the same on this new Commission, An objection preoccupated.

mission, and not on the old: or if this new Commission were a Continuation, or a reintegration of the old, both should be inserted in the Articles of peace, if they intended to conclude any valid or solid peace. Shall I speake the truth *in simplicitate cordis mei*? as that peace alone was concluded, which pleased the Marques of *Ormond*, and all other peaces, that pleased God and man, king and Country were rejected: so *then* was the peace concluded, when it pleased *Ormond*, namely *when* hee and his pretended Protestants could no longer subsist, their brethren (the *Scots* and other Parliamentarie Rebells) being reduced to nothing in *Vlster* and *Connaught*. while these monsters could craule, the conclusion of any peace was protracted; while *Bunratty* was in dispaire, *Roscoman* and other places in *Connaught* in defiance against the Confederate Catholiques; then the Marques his Commission was recalled, but when the Catholique Confederates recovered all these places, and gained two glorious victories against the Enemie, then this demortued Commission was suddenly revived, and a peace was concluded upon, maugre all the resistance of the Lord Nuncius and Clergie, or the soundest part of the Councell and Committee, of severall acts and protestations made by the whole kingdome in the assemblies held in *August*, and *February* 1645.

Psal. 2. 4. But, *qui habitat in coelis, irridebit eos. Ejice ancillam.*

Gal. 4. 30. Heresie hath already too long tyrannized in *Ireland* more in the following paragraph, and paragraph 3. numb. 13. where the king by his Declaration (or at least by that Declaration, which was set forth under his name) is content to *leave the managing of the businesse of Ireland wholly to the two houses* of *England*, which if the Reader please to compare with the vote of the Commons above mentioned numb. 6. Hee will finde that the Catholique Confederates are like to loose to their king and themselves all *Ireland*, if they part with the government of such Cities, Forts or Garrisons, as are in their Quarters or with the Command of their armies &c. to any, that is not a sworne Confederate Catholique.

§. 2. That

§. 2. *That neither obligation of law or honour, utilitie to His Maiestie, or necessitie of the kingdom, did induce our Councell to conclude this Peace.*

9. THat no obligation of law did enforce our Committee to conclude this peace is evident by what even now we expressed in the foregoing paragraph: for if the articles, though *signed* and *sealed* on the 28. day of *March*, yet remained still as a scrole untill the 29. of *Iuly* following, at which time, and not before, they were *delivered* and begunne to oblige; then is it certaine that during that intervall our Committee were free, and at their owne libertie to perfect, or not perfect, conclude or not conclude the said Articles, yea they could not with integritie of conscience and discharge of the trust imposed on them, proceede to the deliverie or conclusion of the said Articles, being enformed that His Majestie had now recalled the Marques his Commission, authorizing him to conclude a peace; it being a Maxime generally received aswell in the lawes of *England* as in the Cesarean or Common law, *extingui mandatum per revocationem mandantis*; that a Commission given to any is extinguished by the revocation thereof, and out of the extinction of the Commission foloweth the extinction also of all obligation to pursue the contract, nay wee shall shew hereafter, that the Commission given to our Committee to conclude this rejected peace was not onely invalid but also sufficiently recalled before any such peace was concluded. Wherefore wee may without difficultie conclude that no obligation of law did enforce our Partie to conclude this peace. As *then* the Lord Lieutenant did recoyle from those articles, which he himselfe *signed* and *sealed*, esteeming himselfe not to be obliged by any such signing and sealing to deliver the same; so *hereafter* (in case wee were brought to that fooles Paradise to accept the peace, and hee once possesse our Armies and garisons) hee will likewise recoyle, and tell us, when wee looke for performance of the Articles; Sirs, my Commission was recalled when I concluded this peace with you, what I have

done therein was grounded upon no authoritie, and therefore invalid, wherefore I am not obliged, neither will I ſtand to the articles therein concluded.

10. The obligation of law being thus extinguished, undoubtedly the obligation of honour, which is grounded thereupon was alſo extinguished. This I adde, becauſe I have heard ſome of our Committee of Inſtructions ingeniouſly confeſſe, that they had never conſented to proceede unto the concluſion of that peace, if they had thought, they were not obliged thereunto by Law and honour, of which ignorance I marvaile they were not freed by thoſe among them, who were skilfull in the lawes: they themſelves might obſerve in the Marques of *Ormonds* recoyling from the Contract, that hee held himſelfe not bound either in Law or honour to conclude the ſame; why then ſhould they thinke themſelves more bound than he? if there was any obligation, it was alſo mutuall; ſo as the Marques could not be free, unleſſe our partie were alſo free; If our Councell and Committees would needs inſiſt ſo much upon honour, they ſhould rather in honour deſiſt from the concluſion of any peace with his Excellencie, ſeeing they were ſo fool'd by him, as having received their moneyes, to the value of three thouſand pounds (as is ſaid) to ſupply his preſent neceſſitie, hee without any reſpect to ſuch favour done him, or to the precedent *obligation of ſigning and ſealing* the peace, rejected them and denyed to conclude any peace with them. Wherefore in very deed the concluſion of that peace did redound rather to their diſhonour than honour; and the giving of ſo much money to the Marques was to diſgrace and prey the Countrey. Queſtionleſſe no good Catholique would ever contribute any money to purchaſe ſuch a peace. I wiſh this diſhonour were confined within the bounds of *Ireland* onely.

11. That utilitie to our Soveraigne could be no motive to our Committee of the treatie to conclude ſuch a peace is alſo evident, in aſmuch as the Catholiques at home obſerving the iniquitie thereof tending directly to the maintenance of their ſworne Enemies and their owne deſtruction, had beene thereby wholly diſheartned, and deterred from giving any aid to His Majeſtie either in their

their persons or meanes; and the Catholique Princes and Prelats abroad had likewise wholly substracted their succours, deeming it against Conscience to concurre to the preservation of heresie. And what can more disheartten the Catholiques of *Ireland*, than to see their service, their Contributions, their prowesse and fidelitie so vilipended, as they may not be permitted to enjoy those priviledges onely and immunities, either in spirituall or temporall, which are due unto them by their birthright and which by the ancient fundamentall lawes of the kingdome they ought quietly and peaceably to enjoy? much more might be here said, particularly touching the danger, whereunto our Soveraigne had been exposed, if the possession of his Forts and Command of his Armyes had been given to any, but to such as are Catholiques. Whereof elsewhere. That the necessitie of the kingdome should induce the Committee of the Treatie to make this peace, it may not be, seeing the kingdome was never in a better posture to defend it selfe, or in greater hopes to chase away, and destroy the Enemie, than it was, when our Committee concluded this fatall peace, as you have, and shall hereafter heare more amply. Certainly if the hinderance of the prosecution of our victories against the Enemie be a disprofit and detriment to His Majestie (as sure it is) the concluding of this peace (where such hinderance followed) must be necessarily a disprofit and detriment to His Majestie. Wherefore we may rightly conclude, that neither necessitie on our part nor utilitie on the Kings part, nor obligation of law or honour did induce our Committee to the conclusion of this peace. Had our Councell and Committees shewd the same resolution, and used the same endeavours to procure the acceptance of the Earle of *Glamorgans* honourable and just peace in the Enemies Quarters by force and armes, as they used to procure the acceptance of the Marques his dishonourable and unjust peace in the Confederate Catholiques Quarters, then had the puritie of their intentions been revealed, and their endeavours applauded. *Si autem oculus tuus fuerit nequam, totum corpus tuum tenebrosum erit.* The Marques of *Ormond* his Protestant partie had more zeale (*licet sine scientia*) to secure their new sect, than our Councell or Committee had

See part. 1. sup. art. 25. 28.

Math. 6. 23.

to

to receive the Catholique Religion. The Protestants would rather loose their lyes (and life to) than joyne with them in setling *Glamorgans* peace within their quarters, because they held it destructive to their sects; yet they must joyne with the Protestants to setle within the Catholique Confederates Quarters *Ormonds* peace, though they could not be ignorant, how it was destructive to the Catholique faith. Eighteen blacke Coates belonging to Ministers were found among the rest of the luggage, which were left in the Castle of Kilkenny after the Marques his retraite to Dublin. *Factum est hoc ad insidias, sanctificationi, & in diabolum in malum in Israel.* 1. Machab. 1. 38.

§. 3. *The Marques of Ormonds his Commission tacitly recalled in January 1643. The objection made that the revocation of the Marques his Commission was not enforced, is resolved.*

12. IN the declaration made by His Majestie the 29. of *January* 1643. recalling the Earle of *Glamorgans* peace, His Majestie promiseth to make *no peace with the Irish, without the consent of the Parliament*; this declaration coming to the knowledge of the Marques of *Ormond*, and of our Councell and Committee before the 28. of *March*, was (at least) a tacit revocation of the Marques his Commission, even before the very *signing and sealing of this Peace*; wherefore neither of both parties ought (after notice hereof) proceede to the *signing* and *sealing* of the same peace. Our Committee was inhibited by the assembly, to conclude any thing in the businesse untill *May*; the Marques receives the Kings declaration, that hee will proceed no further *in any peace with the Irish, without consent of the Parliament*; notwithstanding all this, both parties proceede in the peace. Yet as soone as ever the same revocation appeared, our Councell and Committee forthwith desisted in the prosecution of *Glamorgans* Peace, though it was knowne to have beene not onely invalid, as coming after the mandate was executed; but also to have been surreptitious and framed by *Glamorgans* Adversaries, and the Adversaries of the Catholique Confederates; nothing (though ever so valid)

was

was powerfull enough to stop or stay our Councell and Committees from concluding *Ormonds* unjust peace: any thing (though ever so invalid) was powerfull enough to stop them from prosecuting *Glamorgans* just and honourable peace. If our people did preferre the advancement of the Catholique faith before their owne private interest and inordinate affection to private persons; they should set upon them that opposed *Glamorgans* peace with as much vigour, as ever they set upon the *Scot* or other Parliamentaries, especially when such persons were enformed by speciall letters from his Majestie that such a Commission to conclude a Peace was given to *Glamorgan*. Yet from hence wee deduce this argument *a minori ad majus*: If *Glamorgans* peace was censured invalid, because it was revoked by His Majestie, though the revocation was not made untill after hee executed his Commission; how much more invalid is the Marques his peace, seeing his Commission was revoked and recalled by His Majesty expressely before the Marques put his Commission in execution, and implicitly before it was inchoatively attempted to be put in execution? That is worthy the observation, when our Councell and Committees doubted not of the conclusion and acceptation of *Ormonds* peace, they sleighted and contemned *Glamorgan* and his peace; but when they saw the Clergie and kingdome would by no meanes accept of *Ormonds* peace, then did they begin to looke on *Glamorgan* and his Peace, and to coulour their owne proceedings they would make us believe, that in *Ormonds* peace there was a relation unto *Glamorgans*. Whereupon *Glamorgan* (to fit them in their owne policie) told them, the Conditions were not observed, and that therefore he was not obliged, therfore would not stand to the Articles past betweene him and them; which hee said to no other end, than to affront them, that would affront him, and let them know *comprehenduntur in consilijs quibus cogitant*.

13. It will peradventure be answered that His Majestie was not then *sui iuris*, at his owne libertie and freedome of will or power, when he recalled the Marques his Commission, being indeed then in the hands of the *Scots*. Whereunto we reply, that his Excellencie the Marques accepted His Majesties revocation

proceeding from him as being *in pleno iure*, in his *owne full and free libertie*, and yeelded obedience thereunto, notwithstanding a precedent double tie, which obliged him to goe forward, to wit, *the signing and sealing* of the Articles of peace on the 28. of *March* before, and the receiving of three thousand pounds (or thereabouts) from the Councell, not long before, on hopes to conclude such a forlorne peace. Its against the rule of justice (which requires equallitie on both sides) that the Confederate Catholiques should be tyed to stand to the peace made with the Marques, notwithstanding any revocation, and that the Marques should be fast and loose, and at his owne libertie, when hee please by accepting the revocation to annull the Peace, and by rejecting the revocation, to render the same valid and of full force. *Montrosse* in *Scotland* received Commands from His Majestie (being in the same condition with the *Scots*, that hee was, when he wrote this revocation of *Ormonds* Commission) to lay downe armes &c. whereunto he yeelded obedience, supposing His Majestie to be, even then, *sui iuris*: of which president, wee doubt not, the Marques of *Ormond* will make use, when hee is disposed (upon any advantage) to invalid or make void the Articles of the rejected peace. That the Marques hath already resolved to yeeld perfect obedience to that revocation is (at least indirectly) insi-
Psal. 2. 4. *Gal. 4. 30.* nuated unto us by the six Agents sent from *Kilkenny* to *Waterford* in the reasons given by them to the Congregation, why they concluded the peace, where they say, that *the Lord Lieutenant conceiving that what commeth NOW from His Majestie is not his free act, is resolved to give no obedience thereunto*: So as this disobedience is *in ordine ad futura mandata*, looks upon all Commands that *shall* come after that time, namely, after the moneth of *August* last, and not on the Commands, that came before, among which was that revocation of his Commission to make a peace. These words expressed in the foresaid declaration, recalling *Glamorgans* Commission makes this matter more dangerous: *that a messenger* (saith His Majestie writing to the Parliament) *be immediatly sent for Ireland to prevent any accident that may happen to hinder His Majesties resolution of leaving the managing of the businesse of Ireland wholly to the*

two houſes, and to MAKE NO PEACE there, but with their CONSENT, which in caſe it ſhall pleaſe God to bleſſe his endeavours in the treatie with ſucceſſe, His Maieſtie doth hereby engage himſelfe to doe. Who knowes, but the forementioned meſſenger hath beene accordingly ſent to the Marques commāding him, even then, to make no peace? *Incidit in foveam, quam fecit.* this declaration is thought to have beene made by *Digby* and others in *Dublin* to deſtroy *Glamorgans* Peace, yet being well examined, will prove as deſtructive to the Marques his owne peace.

§. 4. *The invaliditie of the peace proved out of the Marques his Exceeding his Commiſſion, and not obſervance thereof.*

14. IF *he, that hath a Commiſſion or command to doe any thing, ſhall exceed his Commiſſion, he doth nothing that is valid or firme*, ſaith the law, whereof in the paragraph more amplie, herein we cōceiue the Marques trāsgreſſed this cōmiſſiō namelie in grāting by the 15 article of the reiected peace *an act of oblivion* unto al his Maieſties ſubiects, therein cōprehending the Rebellious Scotts and Parliamētaries, whereas his Cōmiſſion extends onely (as we collect out of the preface of the articles, where mention is made of his Commiſſion) to the confederat Catholikes, nay his Maieſtie by his letters dated the 16. th. of Februarie 1644. gaue expreſſe order to the Marques of Ormond *to ſeeke to renewe the Ceſſation with* the Irish *for a yeare: for which (ſaith his Maieſtie) yow ſhall promiſe the Irish (if yow can haue it noe cheaper) to ioyne with them againſt the Scots and Inchequin: for I hope by that time, my condition may be ſuch, as the Irish may be glad to accept leſſe, or I able to grant more.* marke (I beſeech yow) the Irish (in obedience to his Maieſties desire) continued the *Ceſſation* for a yeare and a halfe after, yet al that while did not the Marques ioyne with them againſt the Scots or Inchequin. To gaine only *a yeares Ceſſation* his Maieſtie was pleaſed that the Marques ſhould *ioyne with* us againſt the Scots and Inchequin: Our Councell and Committees haue not onely conſented to a *ceſſation*, but haue alſo made a peace, and yett haue not obliged the Marques to ioyne with them againſt the Scots or Inchequin. Indeed the

Azor. Inſtit. moral. par. 3. l. 9. q. 6. quæſito 4. Filiinc. trac. 39. Cap. 2.

Marques

Marques and our Committee haue plaid the part of good *Chapmen* for his Maiestie, but theire negotiation cost his Maiestie the losse of England, if he, by whom kings raigne, repaire not the losse.

15. In the Diurnals of the Assemblie held in August, 1645. I reade that the Marques of Ormond by his letters sent from Dublin to the assemblie then held at Kilkenny, and there read 18. augusti 1645. declared unto the Confederat Catholikes, that the Rebellions Scots of the North were advanceing forward with theire Army, and therfore prayd the said Confederats to send theire armes and forces to gether with six weekes meanes to be ioyned with his forces: he prayd also he might be Commander in chiefe of both forces, and that the Catholike armies might be subordinat to his Commands. The Confederat Catholikes, not esteeming any Machiuilian policie, (which herein they might forsee) but being caried away with the firme allegiance they ought theire king, and fervent desire they had to aduance his seruice, by universall and unanimous vote condescended to the Marques his request, and gaue him with all, in mony to assist his maiestie in that expedition 30000. pounds. The monyes were receiued by the marques (as then was bruited) the Catholike confederats provided on theire parts; but neither then nor after would the marques of Ormond euer goe into the field either with his owne forces apart, or ioynd with ours, against the Scots. nay if we may give credit to the probable coniectures and strong presumptions of many, his Excellencie had some influence and concurrance in the invasion made by the Scots into Conaught, and other parts of Ireland, and it was observed, that upon such inuasions and other defections of the Enemie, his Excellencie endeauoured to draw our people to this uniust peace, obiecting unto us; how *could we resist so many Enemies?* wherein he had enough of mercenaries in our owne bosome, who plaid the advocates for him see more §. 5.

16. It is also observable, that our Councell and Committees had notice of the forsaid letter dated 16. Februarie 1644. the next July following, yet did they neither publish it, nor make use therof in the treatie of peace by causing the marques

to ioyne

to ioyne with them against the Scots or Inchequin according to his Maiesties direction, either after the peace was concluded or before, during the continuance of the Cessation: see above in the first part, and in the Marques his answere to our 7. and 8. proposition, where euery impartiall iudgment may discouer how farre the Marques was from giueing obedience to his Maiesties directions in this particular; and what merueile is it, he fauour, affect and cherish those, who were then used as instruments to persecute the Catholikes, and now lately called upon by the Marques himselfe to assist the hereticks of Dublin? The king (as yow may see by this letter) was glad to giue us a remuneration for condescending to a *Cessation*, being then necessitated; but our Committees would take noe notice therof; they euermore cast the necessite on our selves, and in lieu of accepting graces from his Maiestie, they wasted the monyes of the kingdome on the subiect.

17. Our distressed soueraigne by his missive of the 16. of April 1646. advertised the Marques of Ormond, that he receiued *very good securitie*, that he, and all that did, or should *adhere unto him*, should *be safe in theire persons honour, and Consciences in the Scotish Army*, an that they would *reallie and effectuallie ioyne* with his Majestie *for his preservation, and employ theire armies and forces to assist him*, with whose assistance, and with the conjunction of the forces under the *Marques of Montrosse in Scotland* he would indeavour to *procure an honorable and speedie peace in England*, which resolution he praied the Marques of Ormond to communicat *to his Councell and his loyall subiects with him*. Among these *loyall subiects* it pleased the Marques of Ormond to register Major General Monro, unto whom by his letters dated 21 may 1646. he communicated the kings forsaid resolution in this dialect, Sir *having this morning receiued a dispach from his Maiestie, and command to impart it not onely to his Councell, but to all his loyall subiects, I am confident, yow haue soe good a title to aknowledge there of, as I have held it my part instantlie to dispache it unto yow by an expresse, and soe sir, wishing yow all happines, I rest, your assured humble servant. Ormond.* here I obserue first that Monro, and such other Couenantiers (who have sworne

the oath of Couenant againſt the king, and his monarchie, and made warre theſe foure yeares paſt againſt him, are in Ormonds Calender *Loyall ſubiects*, though (in his maieſties Calender) they be notable *Rebels*, and therfore he admoniſheth Ormond to ioyne in armes with the Irish againſt them; from whence this sequel may be rightlie deduced, to giue the gouernment of the Citties, forts.. *&c.* within our quarters, or the Command of our armies unto Ormond, is in effect to giue them unto Monro, and his fellow Couenantiers. 2. I obſerve that the Marques ioyned with the Scots againſt us, whereas the king commanded him to ioyne with us againſt them. 3. I obſerve, that the Scots in England have beene soe farre from ioyning theire forces, with our partie (the Marques of Montroſſe in Scotland) as they haue made him lay downe his armes, and render unto them what forts, Citties. *&c.* he had in his poſſeſſion; noe better ſecuritie or effects may the Confederat Catholikes expect by any conjunction with Ormond if therin he shall haue the chiefe Command or gouernment. Other obſervations I omitt, haveing heard before the impreſſion hereof ſome good newes of Leslyes conjunction with Antrim, and of a happie victorie by them obtained againſt the Parliamentaries. God grant it bee true. To concurre with the English Parliament to dethrone theire owne naturall ſoueraigne, who hathe beene the greateſt hõour that euer Scotland had (cõſidering the amplitude of his dominions) is a thing ſoe Vnnaturall, as heaveu and earth may be aſtoniſhed at it. Twere better be ſubiects to him, than ſlaues to his Rebellious ſubſects, the Parliament, *dixeruntque omnia ligna ad rhamnum, veni, & impera ſuper nos.* for the Scots forwarning herein, and the incitation of all *faithfull ſubiects* to take armes againſt that rebellious merciles Parliament of England, I will preſume on the Readers favour to licence me to.

Kings letter 27. febr.

Iudic. 9. 14.

A difgreſſion, wherin the Parliament of England hathe manifeſted theire impudencie againſt the Scots, and theire horrid treaſon againſt theire and our natural liegelord.

QVEREES,

QVEREES, TO FIND OVT WHO IT IS

THAT HOLDS OVT IN ARMES AGAINST

THE STATE OF ENGLAND,

SEeing the King is our prisoner, as in the Scottish Army, who by contract are our servants and our Army, and therefore not to do what they list, but what we cõmand them, seeing they receive pay from us as meer mercinaries, and serve not freely as brethren; therefore if our State representative, the chosen Commons of England assembled in Parliament, shall give Order to the State of Scotland for tht King presently to disband all his Forces in England, Ireland, or elsewhere, and to deliver up all Townes and Garrisons unto our States hands;- Quere, I say if it be not done thereupon, if wee may not conclude, that it is the Scots hold up Armes against our State, for the King being our Prisoner, and in their power (our servants) hath no power, but must do as they will, and they will do as they list for him.

For if they of themselves can prostrate their owne opposite armes of Montrosse, &.- and put his name thereto for a cullour, as if done by him, or inforce him to doe it, to cullour their doing why not the same forme upon order from our State aforesaid, - Why, oh English States is not this affayd, to discover who it is that holds up armes against you? - for what power hath one man that is in the power of others? And if our State will not giue order for the same what may we not conclude there of? must the lives and estates of men be sacrificed to the wilfulnesse of any? But our State performing their parts, we shall apparantly see where it rests, for how can the King hinder what they please to doe?

Do not these that are called the French and Spanish States, what them please, - & put.- or their King must put their names thereto, to culour it, that the State may not bee seene in it, but it may passe as if their Kings act, not theirs.- Can any be so simple to think their Kings may or can rule a State.- which is as much as the wisest State can doe. - In short it is the States doe all, and so doe the Scot, and so ought our State and not let the weale, safety, happinesse, prosperitie and being of a Kingdome or kingdomes, and millions of lives therein, lye at the will, or the VVilfulnesse, folly, or madnesse of one

man;

man, whom they call their king, though the Parliament of England in their late letter to him when hee was at Oxford, doe tell him plainly, that he is guilty of all the innocent blood which hath beene now shed in all the three kingdomes.

Oh therefore, let not the world jeer us, that our prisoner can use his keepers as his prisoners, &c. Who hath stood it out in open Hostility as long as possible he could, against his Earthly Soveraigne, Lord, king, and Creator, the state Universall, Whose legall and formal representative, the Parliament, (he hath unnaturally, wickedly, unjustly, and irrationally) proclaimed Traytors and Rebels for doing their duty in endeavouring the preservation of those that trusted them, from the ruine and distruction endeavoured and intended to them by him, their rebellious servant.

How can it be properly said, that the English Creator, the State of England, can commit Treason against it's own meere creature, the king? If it be treason to assist the king with men monies, armes and horses in this his unnaturall Warre and Rebellion against the Parliament and people of England, as the Parliament hath often declared, then is it not the height of Treason for any of the Parliamentes Armies privately to treat with him, and to receive him, into their Army, and there protect him (from those who requite him and have right to him) and to dispose of him, yea, and afford him elbow room and libertie to send Messages and Embassages to Denmark, Holland, France, Spain and Ireland, or whether he pleaseth, that so he may lay new designes for the utter subversion and destruction of the State and kingdome: Oh the height of. &c. no longer to be put up, borne, or suffered by trustees that desire to approve themselves faithfull to their trusters. London August. 16 46.

19. Reade all histories, sacted and prophane, revolve all Chronicles domesticke and forren, and tell us, if yow haue, or can finde any treason soe abominable, any rebellion soe odious to God and man, any Apostacie soe detestable to heaven and earth, as is this damnable treason, rebellion, and apostacie of the titular Parliament of England? It is not enough to be perfidious to their king, but they must be also blasphemons against God, by making themselues Creators. Here monarchie is ablegated, anarchie introduced the Lords anointed made slaues to their subiects, and their subjects raised to noe lesse dignitie,

than

than to earthly souereignes, Lords, Kings, Creators, the state vniuersall. Theire fellow subjects (the Scots) are theire mercenaries and servants, not theire Brethren, and the Irish are unto them *opprobrium hominum, et abiectio Plebis*. But pride and confusion, disobedience to Princes, and treason against them and theire monarchie is a propertie inseparable from moderne heretickes: wherfore we must not admire that Dr. Carrier sometime a Protestant and Chaplaine to k. James burst forth into these words. *I can not* be persuaded, that they ever will, or can joyne togeather to advance your Majesty, or your children, further then they may make a present gayne by you. They are not agreed of their own Religion, nor of the principles of universall and Eternall truth; & how can they be constant in the Rules of particular, and transitory honor? Where there is *nullum Principium Ordinis*, there can be *nullum principium Honoris*: such is their Case. There is a voyce of confusion among them as well in matters of State as of religiō. Their power is great, but not to edification, but to destruction. They ioyne to geather onely a gaynst good Order, which they call the Common Enemy? and if they can destroy that, they will in all likelihood turne their fury agaynst themselves, and like Diuells torment, like Serpents deuoure one another. In the meane time if they can make their Burgers, Princes, and turne old Kingdomes into new States, it is lyke inough they will doe it: but that they will ever agree togeather, to make any one Prince, King or Emperour ouer them all & yield due obedience unto him further, then eyther their gayne shall allure them, or his sword shall compell them, that I can not persuade my selfe to beleue. And therfore I can not hope that your Majesty, or your Posterity can expect the like honour or security from them, which you might do from Catholike Princes, if you were ioyned firmely to them in the vnity of Religion.

§ 5. The Marques of Ormonds Commission enlarged by his Majestie, but his Command not executed.

20. When the Marques of Ormond dispachd Agents unto the Parliament demanding succours from them against the confederat Catholikes of Ireland, It is said, Sargeant Eustace (to

cloake that treason) publickelie declared in the dismembred Parliament of Dublin, that as it was lawfull for euery man euen by the law of nature to defend himselfe against the violence of iniust Assailants, soe was it lawfull for the kings Lieutenant, and the kings priuie Councell in Dublin (for theire owne defence) to looke for succour from the kings Enemies, (the Parliament) against the kings subjects the Irish, who were in a violent and hostile manner to assault them. leeving this passe for an hyperbole, the Catholike Confederats doe briefflie affirme, that they were noe assailants, but defendents of theire lives, religion, liberties, and estates against theire fellow subjects, and particularlie against the chiefe Ministers of justice, who following the steps of their Predecessours tirannically gouerning, made use of all the projects, that michieuous policie could invent to depriue them of theire lives, religion, liberties, and estates, wherin they have beene soe exorbitant, as neither the authoritie of the ancient fundamentall lawes of the kingdome, nor the kings owne Commands could preuaile with them. Here we must descend vnto particulars, and especiallie to the kings Commands sent vnto the Marques of Ormond *enlarging* his power for the speedie conclusion of a happie peace.

21. The *impossibilitie* (saith his Majestie writing to the Marques of Ormond) of *preserving* my *Protestant* Subjects in *Ireland*, by a continuation of the warr, haueing moved me to give you these powers and directions, which I haue formerly done "for the concluding of a Peace there, and the same growing daily much more evident, that alone were reason enough for "me to enlarge your powers, and to make my Commands in- "the point more positive. But besides these considerations, it "being now manifest, that the *English Rebels* haue (as farr as in "them lies) given the command of *Ireland* to the *Scots*; that "their aime is at a totall subversion of Religion and Regall pow- "er, and that nothing lesse will content them, or purchase Pea- "ce: here I think my self bound in Conscience not to let slip "the meanes of setling that Kingdom (if it may be) fully under "my obedience; nor to lose that assistance which I may have "from my *Irish* Subjects for such scruples as in a lesse pressing "condition might reasonably be stuck at by me: For their satis-

faction

"faction I do therefore command you to conclude a Peace with "the *Irish*, whatever it cost, so that my *Protestant* Subjects there "may be secured, and my Regall Authority preserved; But for "all this you are to make me the best bargaine you can, and not "discover your inlargement of power till you needs must. And "though I leave the managing of this great and necessary work "entirely to you, yet I cannot but tell you, that if the suspension "of *Poynings Act* for such Bills as shall be agreed upon between "you there, and the present taking away of the Penall Lawes "against Papists, by a Law will do it; I shall not think it a hard "Bargaine: so that freely and vigorously they ingage themsel-"ves in my assistance, against my Rebels of *England* and *Scotland*, "for which no conditions can be too hard, not being against "Conscience or Honour.

22. Many things are here to be carefullie obserued by the Confederat Catholikes. first that this letter or *enlargment* of the Marques his *power* was neuer communicated vnto our Councell or Committees (though then, and after in actuall treatie with hym for a peace, by vertue of a former Commission giuen him by his Maiestie the 24. th of Iune before) vntill the same was put into the presse by the Parliament, who found the same in his Maiesties Cabinet in the battell of Nasby; from the print of London it was sent into France, and there sent by accident into Ireland. yet the reuocation of the Marques his Commission by the letter of the 11. of Iune aboue mentioned was forthwith and without delay communicated vnto vs by the Marques, and soe punctuallie obserued as noe precedent obligation past betweene him and the Confederat Catholikes could induce him to goe forward. By which the Confederat Catholikes may with resentment take notice, how litle behoulding they haue beene vnto the Marques of Ormond for any graces or fauours shewd them by him, though his fauorits haue extolld his imaginarie fauours don the Contry beyond measure. 2. whether the Kingdome haue more cause to conceiue iealousie (in this respect) against the Marques, who (as yow may behould in the letter) had some Commaunds not *to discouer the enlargment of his power till he needs must*, than against the then supreme Councell, who receiuing this letter in Iuly or August 1645. did neuer

neuer to this day reueale or publish the same vnto the kingdome. whether this was don by them, because they were then actuallie concluding a peace (in huggar muggar) with the Marques and therin resolued to reiect these royall graces of the *repeale of the penall lawes*, and *suspension of Poynings act*, and therfore would not discouer these graces, least their owne remisnes in the cause of God should be likewise discouered; or for what other cavse they did it, 'twere fit to bring into question. 3. we are to obserue with what confidence the Marques proceeded with our Committee, with whom he doubted not to conclude a peace on more abiect Conditions than the king himselfe did grant vnto them. 4. That as Sir William Parsons and the rest of the Rownd-headed priuie Councell of Dublin did suppresse from the Contry the graces sent ouer into the Chtholike Confederats of Ireland the August before the first of these Commotions; soe our owne intrusted Catholikes suppressed these other graces granted vnto vs by his Maiestie since these Commotions. *inimici hominis domestici eius.* 5. out of all which yow may further obserue the hypocrisie of some great ones in Dublin; who (to cloake their disloyall recourse for succours to the Parliamentarie Rebels) gaue out that they were forced therunto for their necessarie defence against the Confederat Catholikes: wheras it is is most certaine if the Marques had granted vnto vs what the king commanded him by this letter, and not giuen (for his owne priuat ends, to the kings irrecouerable detriment) impediment to the Earle of Glamorgans articles of peace; the Catholike Confederats had ioynd with armes and hearts in soe happie a peace, and (by Gods blessing) they had (with the hazard of their liues, estates, and fortunes, together with the aids of forren Catholike Princes and Prelats) preuented and preserued his Majestie from the deplorable condition wherin now he is; and chased out the of three kingdomes his sworne enemies. In a word the Marques, and those of Dublin sent vnto the kings Ennemies for succours, not to defend themselues as they pretended; but to defend their obstinat disobedience to the kings Commands; and their inordinat desires to preserue these pernicious heretics, who are known to side with

and

and sweare *for* the Parliament; wherfor the Confederat Catholikes did discharge theire dutie to God, and theire allegiance to theire king in setting vpon such disloyall Refractories wherin they proceeded (Like faithfull subjects) in a defensiue way, endeauouring to maintaine the present grants and graces, which theire gratious Soueraigne conferred vpon them, and the ancient fundamentall lawes of the Kingdome, chiefly that of Magna Charta, wherin theire, religion, liberties, liues, and estates haue beene secured vnto them; for defence wherof millions of noble Catholike subjects in England in former ages haue sacrificed theire liues and fortunes, and taken vp armes, euen against theire owne soueraignes: how much more iustlie might the Confederat Catholikes, (for defence of the same lawes) take vp armes against theire fellow subjects, who, as they haue rebelled against God by repealing those ancient fundamentall lawes and establishing new destructiue to the Catholike faith; soe haue they, and still doe rebell against the lords annointed theire liege lord and soueraigne, by disobeying his lawfull Commands; and attempting the ruin of him and his royall issue. But these obseruations on that letter are extrinsecall; in the following paragraph we will present the Reader with other obseruations that are intrinsecall.

§. 6. His Majesties Confidence in the fidelitie and assistance of the Confederat Catholikes. Parliamentaries iustlie branded by his Majestie for Rebels, and theire actions Rebellious.

23. Before the forsaid letter of the 27. th of februarie was written and sent by his Majestie to the Marques of Ormond, his Majestie wrote and sent three other letters vnto him, wherof the first was dated *December* 15. 1644. and continueth what followeth.

"As for *Poynings* Act, I referre you to my other Letter: and for "matter of Religion, though I haue not found it fit to take pu- "blique notice of the paper which *Brown* gave you, yet I must "commande you to giue him, my L. *Muskery* and *Plunket* par- "ticular thanks for it, assuring them that without it, there could "haue been no peace; and that sticking to it, their Nation in'

"generall, and they in particular ſhall have comfort in what "they have done: *and to ſhew that this is more then words, I do her-* "*by promiſſe them, (and command you to ſee it done) that the Penall* "*Statutes againſt Roman Catholiques ſhall not be put in execution, the* "*Peace being made, and ther remaining in them due obedience; and* "*further, that when the* Irish *gives me that aſſiſtance which they have* "*promiſed, for the ſuppreſſion of this Rebellion, and I ſhall be reſtored* "*to my Rights, then I will conſent to the Repeale of them by a Law;* "*but all thoſe againſt Appeales to* Rome, *and Premunire muſt ſtand,* "all this in Cypher you muſt impart to none, but thoſe three al- "ready named, and that with injunction of ſtricteſt ſecreſie: ſo "again recommending to your care the ſpeedy diſpatch of the "peace of *Ireland*, and my neceſſary ſupply from thence, as I wrote to you in my laſt private letter, I reſt.

24. The ſecond letter is dated from Oxford 7. Ianuary 1644. and containeth what followeth. The *Rebels here* "agreed to Treat; and moſt aſſuredly, one of the firſt and chiefe "Articles they will inſiſt on, will be, to continue the Irish *warr*, "which is a point not popular for me to break on; of which you "are to make a double yſe: Firſt to haſten (with all poſſible dili- "gence) the Peace there, the timely concluſion of which will "take off that inconvenience which otherwiſe I may be ſubject "to by the refuſall of that Article upon any other reaſon. Se- "condly, by dextrous conveying to the *Irish* the danger there "may be of their totall and perpetual excluſion from thoſe fa- "vours I intend them, in caſe the Rebels here clap up a Peace "whith me upon reaſonable termes, and only exclude them; "which poſſibly were not councelable for me to refuſe, if the "Irish Peace ſhould be the only difference betwixt us, before "it were perfected there. Theſe I hope are ſufficient grounds "for you to perſwade the *Iriſh* diligently to diſpatch a Peace "upon reaſonable termes; aſſuring them, that you having once "fully engaged to them my word (in the concluſion of a Peace) "all the Earth ſhall not make me break it.

"But not doubting of a *Peace*, I muſt again remember you to "preſſe the *Iriſh* for their ſpeedy aſſiſtance to me here, and their "friends in *Scoland*; My intention being to draw from thence "into *Wales* (the Peace once concluded) as many as I can of

my

"my Proteſtant armed ſubjects, and deſire that the *Iriſh* would "ſend as great a Body as they can to land about *Cumberland*, "which will put thoſe Northern Counties in a brave condi- "tion; wherefore you muſt take ſpeedy order to provide all "the Shipping you may, as well *Dunkirk* as *Irish* Bottomes; and "remember, that after *March* it will be moſt difficult to tranſ- "port men from *Ireland* to *England*, the Rebels being maſters "of the Seas. So expecting a diligent and particular account in "anſwer to this Letter, Ireſt.

15. The third letter is dated at Oxford alſo, february 16. 1644. in the poſtſcript wherof (for the letter it ſelfe, we haue not ſeene) it is thus written: *In caſe vpon particular mens fancies the Irish peace ſhould not be procured vpon powers I haue alreadie giuen yow, I haue thought good to giue you this further order (which I hope will proue needles) to renne the ceſſation for a yeare: for which yow may promiſe the Irish (if yow can haue it noe better cheape) to ioyne with them againſt the Scots and Inchequin*, as aboue yow haue heard. where we are to note that his Majeſtie forſeing that the power alreadie giuen the Marques was not ſufficient to induce the Irish to a peace, *enlargeth* by his letter dated the ſelfe ſame month, to witt, the 27. of february, aboue (num. 23.) mentioned, the former power giuen to the Marques, and expreſſeth in particular the points wherein *this power is enlarged*: namely to the *ſuſpenſion of Poynings act and preſent taking away of the penall lawes againſt Papiſts*, which by his letter of the 15. th December his Maieſtie promiſed to *repeale*, when he ſhould be *reſtored to his rights*, and for the preſent commanded the ſame *penall lawes* ſhould not be *executed*. But what ſoeuer the king commanded the Marques to performe by theſe letters, the Marques hath contemned; whatſoeuer he hath promiſed, our Committee hath neglected; and whatſoeuer he hath actuallie granted, they haue reiected. Among many obligations by which *Mandatarius* (or a Commiſſioner or Committee) is obliged *mandatori*, to him, that giues the Commiſſion, that is a principall one, that the Commiſſioner *is dilig entlie to obſerue the commands* giuen him; and as he is not *to exceede his Commiſſion*, ſoe is he not to deuiat from the ſame; wherein how farre the kings Commiſſioner on his part, and our Committee on theire parte haue tranſgreſſed,

§. 4.

l. diligenter mandati; & glos. in c. ſicut

we

we leaue to the censure of those that haue eyes to see, and iudgment to discerne. To gaine credit in court, and to be courted with letters from great ones, was more esteemed, than the aduancement of Religion king, or Conrry. *ve filii desertores & non per spiritum meum &c. habentes fiduciam in vmbra Aegipti.* Is. 30. some of our owne Committee in lieu of solliciting the cause of God, of religion, king, and Contry, wherwith the kingdome intrusted them, became actiue instruments for the aduerse partie, and busie Postilions from one Commander, and from one Gentleman to an other, to sollicit them to a defection, and some of these are knowne to haue receiued priuar letters from great ones, with whom to ingratiat themselues what would they not attempt? though when matters are well discussed, it shall appeare to the world, that they proued such bad Proctors, as marr-d all the busines, and hindred irrecouerablie (vnles God streatch forth his helping hand) both king and Contry. were they soe diligent in promoueing the cause of God intrusted to them by the kingdome, they would (at least) shew themselues soe prouident and carefull, as they would cause these missiues Royall (or the substance of them, for soe much as concerned *the repeale of the penall lawes and suspension of Poyning act*) to be inserted in the articles of peace, that the Contry might haue some consolation, and religion some Securitie. But if yow marke it well; they haue followed the instructions of the aduerse partie against whom they were imploied, and not of the kingdome, for which they were imploied. referre all things to the king (saith the aduerse partie) and that is don, though they knew in theire owne soules, the king will neuer be able (whilst he remaine in his present wofull Condition) to grant vs, what alreadie he hath commanded to grant vs: let nothing be referred to vncertainties, but obtaine an actuall execution of these Commands and graces, which the king hath alreadie granted vs, and which is due vnto vs by our birth right (saith the kingdome) and that is not don. how seuerly the ancient Iurists, or Canonists haue censured such kind of Commissioners, who (vel *ex culpa leuissima*) doe thus neglect or sleight the execution of the Commands giuen, and what punishment are to be inflicted on them are expressed in the Canons and schoolemen, wherunto we referre the learned Readers.

A zor. instit. moral. par. 3. l. 9. Cap. 6

Ob-

26. Obserue (I beseech yow) the motiues that induced his Majestie to command the *repeale of the penall lawes, and suspension of Poynings act: the preseruing of his protestant subiects*, and the kingdome of Ireland *from the Scots*: to encourage his *Irish subiects* to *assist* him against the English and Scotish Rebels: to *represse the rebellion* in England, and to aduance the kings seruice in Scotlandby our friends there: The kings Commissioner and ours haue gon the cleere contrarie way to worke, and as by Preposterous accelarating this peace they haue giuen a mame impediment to the prosecution of our victories in Vlster and Connaught, soe haue they by their compliance with one an other hindred the succours, which the kingdome commanded to be sent for his Majestie by Antrim into Scotland, and by Glamorgan into England. Note, I pray yow the words of the letter of the 27. of februarie: *for their* (the Irish) *satisfaction, I doe therfore command yow to conclude a peace with the Irish* what euer *it cost*. A generall command, yow see, this is, which hath noe other modification or restriction, than, *soe as my protestant subiects there may be secured, and my regall authoritie preserued*: the later part the Irish haue sworne to doe in their *oath of association* and *oath of fidelitie*; and in their seuerall *protestations* and *declarations*: wherunto the doctrine of the Catholike religion, (which, in opposition to all sects, maintaineth monarchie and regall authoritie) addeth a further obligation. The former to wit, the *securitie* of his *Maiesties Protestant subiects* the Catholike Confederats haue assured in their seuerall declarations, and are readie to giue such further assurance, as the law of God and charitie can oblige them to giue in that case: adding further that they shalbe more secure and safe among the Confederat Catholikes, than among the Parliamentarie Rownd-heads, who haue spilt most vnnaturallie and barbarously more Protestants blood in England, (and that causlesslie) than euer the Catholikes (since these warres) haue in their owne defence spilt in Ireland. The Protestants themselues may reade carefullie the Treatie or conference latelie past in Dublin betweene his Excellencie, the Marques of Ormond and the fiue Commissioners of the Parliament, and glasse their owne miserie. By Protestants we vnderstand such as professe the protestant doctrine established in England

an: 1562. and comprized in the 39. articles, and not any new Parliamentarie Protestants, who, as they haue demolished the ecclesiastical hierarchie maintained in the said articles, soe haue they (as muchas in them lay) monarchicall gouernment; such a brood of vipers, which deoureth both Church and state, king and Prelat, may not be licenced to cohabit with the Confederat Catholikes. Iud. v. *Qui enim dicit illis aue, Communicat operibus eorum malignis.*

27. Obserue further that (according the forsaid letter) the authoritie to coclude a peace is *entirely* in the Marques, yet hath his Excellencie euermore assumed to his assistance, and ioynd (in a manner) in the same authoritie with him, those of the priuie Councell in Dublin, who (for the most part of them) are knowne to haue either adhearred to the Parliament, or to haue beene impeached of high-treason by the kingdome: they (fearing theire heads) would neuer suffer or aduise the Marques to condescend vnto a good peace. And if my author (who liued in Dublin and was an eye-witnes of what he related vnto me) may be beleiued, those very persons, who were knowne to adhere to the Parliament, euen those foure, who for that cause were once committed to the Castle by the Marques, haue had in the Ins there priuat Conuenticles, together with the lord Chancellour, lord Iowther and Maurice Eustace, who (I meane the three last) after theire priuat consultation there would repaire to the priuie Councell in the Castle, where theire aduise (as learned in the lawes) was followed in promouoing this Peace, and theire aduise was instilled according the infusions receiued in the Parliamentarie priuat Conuenticles: soe this inference may seeme more than probable: whatsoeuer was don in promouing and concluding this peace, was not done according the direction and Commands of his Majestie, but according the aduise and and Councell of Parliamentarie Rebels. The effects prone the veritie of this inference.

28. To conclude, the king holds it not *a hard bargaine* to grant vs the repeale of the *penall Lawes*, and the *suspension of Poynings act*, soe *we freely* and vigorouslie engage our selues to his assistance; noe other condition of *securing his protestant subiects, or preseruing his regall authoritie* doth he require of vs for conferring on

vs those two graces, which I wish those Gentlemen did take notice of, who, when they were questioned by the Congregation, wherfore they laboured not to obtaine the benefitt of the graces by this letter conferred on vs, and (to cause the same to be inserted in the articles of peace) excused the Marques of Ormond (or rather themselues) saying that there were other conditions added in the letter, which yow see is not consonant to truth, for so much as concernes these particular graces, other more ample graces might be also granted by the Marques vnto vs, if we *secured* the *Protestants*, and *preserued regall authoritie*: for (on those more ample conditions) the king commanded him to *make a peace* with the Irish *whatsoeuer it cost*, and aggrauateth the matter more earnestlie in the conclusion of his letter, affirming *that to gaine our assistance against the Rebels of England and Scotland no conditions can be hard, not being against conscience and honour.* wherein euermore he supposeth the *repeale of the penall lawes* and suspension of Poynings act to be neither against conscience or honour, or against the securitie of his Protestant subiects, nay we shall els where demonstrat it, that our kings of England are tyed by the ligatures of *promise royall* past by thire royall progenitors, and solemne oath taken at theire Coronation (at least indirectlie) to repeale the said penall lawes, in as much as they haue beene surreptitiously enacted in these later dayes of defection against that Catholike faith, which our king by the said promise and oath haue beene obliged to defend and maintaine I must not here passe by, that the king commads the repeale *or present taking away of the penall lawes* without any lymitation or exception: the Marques of Ormond in *his briefe of Concessions* (from which he shrunke in this peace) limitteth this generall Commission vnto the *penall lawes* onely that concernes *the exercise of our religion*, who is herein imitated by the Marques of Clanrichard (or rather by the politike Contriuers of his engagment) where a promise is made of a reuocation of any penaltie &c imposed on vs for the free exercise of our religion. vnto what wofull dayes are we come, when subjects doe presume not only to limitat theire kings commands as they please but also vterlie to reiect them and by that disobedience to be the occasion of his present disasters, and hazard of the losse of his kingdomes?

kingdomes?

29. By which letter and by these other two aboue mentioned the iudicious Reader may obserue what great confidencie his majestie reposeth in the aid and assistance of the Confederat Catholikes, aswell at home, as abroade, in England and Scotland, by sea and by land, and how earnestlie he presseth a speedie dispatch of the peace to that end. Be it on them and theire posteritie, that haue hindred the same. Glamorgans articles do as yet further confirme aswell the kings confidence in our assistance, as our alacritie, willingnes and earnest desire to comply therein with his Majestie; but the same authors, who contemned the commands of his Majestie haue also laid obstacles to the *assistance* promised to his Majestie vpon the conclusion of Glamorgans peace. It shalbe euer verified what Iohn Dauies sometimes the kings Attutnie left written to posteritie. that the Irish *gladlie continue obedient subiects, without defection or adhering to any other lord or king, &c. and that there is noe nation or people vnder the sunne, that doth loue equall and indifferent iustice better, then the Irish, and will better rest satisfied of the execution therof &c.* farre different (I wisse) was the Censure of this well experienced lawyer, and of many others (whose testimonie for the present I omitt) concerning the loyaltie of the Irish from the Censure of the present lord Chancellour of Ireland, who hauing receiued in his Chamber in the Ins of Dublin from the Councell-table by the hands of a pursеuant a printed booke setting forth the kings resolution to come for this kingdome; said, *God forbid his maiestie should come vnto this kingdome, for the Irish would massacre him, as soone as any other.* wherunto his sonne sir Edward Bolton, now chiefe Baron answered; *nay, father, I am confident, if his Maiestie came hither, that the Irish would lay downe theire armes at his feete and kisse the ground he went on.* The father admiring at the sonnes confidence, in the fidelitie of the Irish, the sonne confirmed his confidence by affirming, *he would lay his head at the stake, if they would not doe it.* This dialoque past betweene the father and the sonne in the presence of the Lady Bolton, Bently the Pursеuant, and R. S. a Cittizen of Dublin, who is my author. The sonne here proues the loyaltie of the Irish, the father shewes his ingratitude towards the Irish, that Nation, that charitablie entertained him in his flight from England to

pag. vlt. of his dis course of Ireland

shun

the Cenſure of the Caſtle Chamber there, who being raiſed from the loweſt ebbe of fortune, (by Ireland) now floateth in the higheſt ſpring of poſteritie. *Qui reddit mala pro bonis, non recedet malum a domo eius.* Such as repined at his Maieſties coming into Ireland repined at his happines. and adhered in opinion and affection to the Parliament. Hiſtories recount, and the preſent damnable Rebellion of England doth confirme more bloodie warres tohaue beene raiſed in England by the Engliſh againſt theire naturall ſoueraignes and more horrid violence to haue beene offered to theire perſons, than euer hath beene raiſed in Ireland againſt them, or offered by the Irish vnto them wherefore what the Chancellour affirmed of the Irish is more applicable to him and to his ill affected Contrymen, wherin, all Europe may be produced as witneſſes, who behould the preſent calamities, wherunto the Rebellions Parliament haue reduced him. what here might be more particularized concerning the ill-affected of that nation, might be alſo particularized in the ill affected Scots, Who are ſaid to haue imbrued theire hands in the blood of many theire owne naturall Princes-from both I abſtaine for the honour I beare vnto England the ſiſter of Ireland, and vnto Scotland the daughter of Ireland, wishing with all the faculties of my ſoule, the occaſion of ſuch recrimination among indeered fellow ſubjects were neuer giuen, or being giuen, might be totallie taken away. *Deus aeternus ſcis quoniam falſum teſtimonium tulerunt contra* Hibernos.

§. 7. *The Marques of Ormonds Commiſſion recalled) as to ſo much) by the Earle of Glamorgans Commiſſion.*

30. Our Diuines and Canoniſts doe teach vs, that the *ſecond mandat*, or Commiſſion *doth not* indeed *derogat vnto the firſt vnles it make mention therof*, yet *that ſometime the ſecond preuaileth and not the firſt*, namely *becauſe* the ſecond is of a *more ſtrict obligation, as tending to the publicke vtilitie and Commoditie*, whereas the firſt conduced *to the priuat onely*. Ormonds Commiſſion granted by his Majeſtie is (in our caſe) *the firſt*, being giuen 24. Iunij. 1644. Glamorgans is the *ſecond*, being giuen the 12. of March 1644. which was full eight months after. In this later Commiſſion mention is made of the firſt thus; *We giue you power to treate and conclude with the Confederat Roman Catholikes in our kingdome of Ireland, if vpon neceſſitie any thing be to be condeſcended vnto, where-*

Azor ſupra Cap. 6. q. 5. et Filliuc ſupra.

in our lord lieutenant can not be so well seene, as not fitt for vs at the present publick elie to owne &c. loe, mention made expresselie of the first Commissioner and implicitlie of his Commission, and by consequence a reuocation (as to so much at least) of the Marques his Commission. yea his Majestie did by his expresse letters signifie vnto the Marques of Ormond that he gaue vnto the Earle of Glamorgan this *second Commission*, therein expressing the ends and causes, wherefore he gaue the same, and wherfore he would haue the matters and points committed to Glamorgans trust exempted from all other matters comprehended in the Marques of Ormonds Commission, and these matters concerned the spiritualtie, for example, *the free and publike exercise of our religion, the securitie of our Churches, the exemption of the Catholikes from the iurisdiction of the Protestant Clergie, the repeale of all penall lawes made against Catholikes &c.* This Commission being granted by his Majestie vpon the neglect of the Marques his obedience to his Majesties Command, requiring him to grant vnto vs the *present taking away of the penall lawes, and the suspension of Poynings act*, I admire how his Excellencie attempted to conclude a peace for these matters, soe exempted out of his Commission, and to referre those matters, which were *agreed and concluded* by his Majesties speciall Commissioner (namely the *repeale of the penall lawes, the free and publicke exercise of our religion*, &c.) vnto any new or future Concessions to be granted by his Majestie, as if he would be moderator, or superintendent ouer king and subject. It was not enough to disobey the kings Commands giuen to himselfe *to repeale those lawes*, &c. but he must also positiuely oppose those other Commands giuen by his Majestie to others, and the Conclusion therupon made. wherfore It is conceaved whatsoeuer the Marques of Ormond hath *treated or concluded* with our Committees in this peace, that was comprehended in Glamorgans Commission, and by him concluded with the Catholike Confederats, were treated and concluded by the Marques without any power, or Commission, not onely because his Commission was recalled, as yow haue heard aboue in the first §. but also because these very articles concerning the spiritualitie (especiallie that first article) where the Marques would needes referre vs vnto the king, for the repealing of the penall lawes &c, which the king alreadie granted vs, were exempted out of his Commis-

sion, by the Commission granted vnto Glamorgan; soe as that maxime (*mandatum secundum derogat primo, si in secundo fiat mentio de primo*) *must* passe currant. *Cap. graue de officio Iud. ordinarij.*

31. To the same effect (but with more energie is that other maxime of interpretation admitted by schoolemen and Canonists (*mandatum speciale derogat generali, etiam si eius nihil memenerit. a speciall Commission (such as Glamorgans was) doth derogat to the generall, though therein there were noe mention made of the generall.* If we looke for other arguments to auoid this assumed power of the Marques of Ormond, the Canons will afford vs many; this alone may suffice for the present: *mandatum finitur, si rem demandatam quis alius idonee gesserit;* a *Commission is ended if any other hath conuenientlie accomplished the thing giuen in Commission to be don*; v. g. if a man giue a procuratorie or letter of Attorny to any to purchase a peece of ground if any other or he himselfe, who gaue the procuratorie, shall purchase the same peece of ground before the Atturny; *cessat mandati actio.* saith the law: soe (in our case) if the king, or Glamorgan (for the king) hath conuenientlie and agreeable to the kings Commands, accomplished that very command, which before was committed to Ormond; but by him sleighted; then *hoc ipso* is Ormonds Commission expired: neither ought or could our Councell or Committee haue recourse To Ormond to treate or conclude those things which were allreddie concluded by the kings speciall Commissioner, vnlesse it were to confirme (in the kings behalfe) what alreadie was concluded by the same Commissioners and to cause those articles granted by Glamorgan to be confirmed by act of parliament, as well as any other articles or concessions granted (for the temporalitie) that were agreed vpon with the Marques of Ormond.

Cap pastoralis de rescrip.

L si procurat, § mandati ff. mandati.

32. It was *agreed* vpon by the Earle of Glamorgan *for and in the behalfe of his Maiestie, his heires and successours that the Marques of Ormond or any other authorized or to be authorized by his Maiestie should not disturbe the Catholikes in their present possession or continuance of the possession of their Churches, iurisdiction* &c for assurance wherof the Earle engaged his *Maiesties royall Word and publike faith*, and his Majestie himselfe (in Glamorgās patent) *in the word of a king and a Christian promised to ratifie and performe* whatsoeuer the Earle granted vnto the Confederat Catholikes. and least his promise royall should be frustrated, his Maiestie communicated

artic. Glamorgan numb. 5.

by speciall letters the Commission giuen Glamorgan, and his re-
solution in this particular, to the Marques. But alas all was in
vaine; soe farre were these *seeming Royalists* and *reall Parliamen-*
taries of Dublin engaged *with*, or at least, awed *by* the Parliament
of England; as they neuer yet yeelded to any thing, or complied
with the kings Commãds *in* any thing, that they thought would
be offensiue to the Parliament. in so much as that chiefe Gouer-
nour, who (of all others) should aduance this opportune seruice
in the kings *pressing necessities*, was the only man that hindred the
same. Now after the *word of a king, and a Christian* so solemnely
and gratiously engaged vnto the Cõfederat Catholikes (but bla-
sted by the Marques of Ormond) a noble Catholike Peere of this
realme the Marques Clãrichard, is brought in by the Marques of
Ormonds procters to imbarke himselfe in a busines, wherein he
was neuer authorized by his majestie, nor inuited by the Catho-
like Confederats, and he vndertakes to giue vs nothing but to
procure vs some thing, and that lesse than the king himselfe by pu-
blicke cõtract hath actuallie grãted vnto vs. Truly I am perswa-
ded the Catholike Cõfederats will not be soe amused as to reiect
the *word* of their soueraigne, and to accept of the *word* of thei-
re fellow subiect, who is lesse able to *procure* a performance of
what he promiseth, than the Catholicke Confederats themselues
are. To plant that heresie in England in the dayes of Elizabeth,
who now hath bathed these three Ilands in their owne blood,
such art was vsed: hereticks assumed Catholikes, as instrumẽts to
compasse their designes; where indeed they preuailed, but the
fatall end of such Catholikes; and the vtter extinction of their
noble posteritie doth manifest to present and future ages, how
odious their enterprise was to God and his Angels. *Caput aspi-*
Iob. 20. 16. *dum fugent, & occidet eos lingua vipera.* If the Marques of Ormõd
found out a way (as he thinks) to crosse vs of the kings owne
graces and Concessions: who may doubt, he will find out a way
to crosse Clanrichards engagment? we do not meane to looke
for those graces and priuiledges by *petition or sollicitation* of others
which are all redie granted vs by publicke Contract. maugre all
emulous subiects the Catholike Confederats shall haue the full
benefitt of Glamorgans articles, together with the fruit of thei-
re possessions and victories since then acquired; neither will they
be deluded by any vnualid, vninst, and dishonourable peace,
which any Puritan statists would by factiõs enforce vpon them.

§. 8. *The invaliditie of the rejected peace proved out of the insufficiency of the Commission given the Committee of Treaty.*

33. HItherto wee have shewed the invaliditie of the rejected peace on the part of the Marques of *Ormond* and his Commission; now wee are to shew the invaliditie of the same peace on the part of our Committee and their commission; wherein (being matter of fact) many acts of assembly, orders of the Councell, protestations of the Clergie, &c. must be alleged and produced. What I could light on, I will with integritie cite what I could not light on, and may make for these noble Persons that concluded, or concurred to the conclusion of that peace, I must leave to their citation, when they please to impugne this Survey or any part thereof. Among the acts of the first Supreme Councell I finde a commission made by that councell 5. *April.* 1645. unto thirteene persons, namely, *Mountgaret*, *Muskerie*, *Dublinienſis*, *Antrym*, *Alexander mac Donell*, *Nicholas Plunket*, *Sir Robert Talbot*, *Sir Richard Everard*, *Dermot O Brien*, *Patricke Darcy*, *Geoffrey Browne*, *John Dillon*, *and Richard Martins Eſquires*, authorizing them or *any five of them to treate, agree and conclude* with the Marques of *Ormond a firme lasting and setled peace* in such manner as they in their iudgements should *thinke fit*, *and most available for the said Catholiques and generall good of this realme.*

34. For the Councells warrant to grant this commission they alleage in the same act, an act past in the generall assembly held at *Kilkenny* the 20. of *July*, 1644. Where (say they, in the act of their Councell) the said allembly authorized the foresaid 13. persons to *treate*, *agree*, *and conclude with the Marques for setling and concluding of a firme and perfect peace, otherwise to conclude of a further Ceſſation.* Where the Reader is carefully to observe that the assembly (according to the Councels own relation) appoints indeed those 13. persons as a Committee of the Treatie, but doth not limit the same *unto any five of them*, as the act of the Councell hath done. I have made search among the Acts of that assembly, but could not finde any act dated the twentieth of *July* 1644. I have indeed found an act of assembly made 10. *Auguſti* 1644. where *it is ordered*

that the undernamed shall be superadded to the Commissioners lately authorized by Commission to goe to His Maiestie, now to goe to the Lord Lieutenant to treate with his Honour, for setling a firme peace within this Kingdome, or a further Cessation of Armes. The persons undenamed are the Lord Archbishop of Dublin, Earle of Antrim, Lord Viscount Mountgaret, Sir Richard Everard, Patricke Darcy and Iohn Dillon Esquires. The Commissioners to goe to His Majestie were *the Lord of Muskerie, Nicholas Plunket, Alexander Mac Donnell, Sir Robert Talbot, Colonell Dermot O Brien, Geoffrey Browne, and Richard Martin.* The like Commission was made by the second and last Supreme Councell unto the same Committee of Treatie, *de verbo ad verbum*, as appeareth in the abridged registers of the Acts of the same Councell.

35. To shew the insufficiencie, defects, and nullitie of the said commission wee neede not entertaine sharpe-sighted Lawyers, the errors, and defects thereof are so grosse and palpable, as men meanly versant in that profession may without difficulty discover them. Wee say then in the first place, that it appeareth not by any act of assembly (that I could light on) that either of both Councells were ever authorized or enabled by the Kingdome, to give any Commission to the foresaid Committee of Treatee, either to treate of, or conclude a peace with his Excellency. Not in any act of assembly past the twentieth of *May* 1644. as the foresaid Commission given by the first Councell doth mention; for no such act can I finde in the Records of the assembly, notwithstanding I have (together with the Clarke of the assembly) made diligent search for the same. As for the Act of assembly 10. *Augusti* 1644. even now mentioned number 34. you see the kingdome selected indeed the foresaid Committee of Treaty, but never (by that act) authorized the Supreme Councell, to give them a Commission to that effect. Yet that such an authoritie is necessarie, is supposed by the Councell it selfe, which groundeth it selfe on the like authoritie, as you have heard numb. 34. for as the assembly onely in the name of the whole kingdome, and not the Supreme Councell, had power to send Commissioners to His Majestie, so the Assembly onely and not the Councell, had power to send Commissioners

The first argumēt proving the insufficiencie of our committees commission.

ners to His Lieutenant, *to treate and conclude a peace*. Yet supposing such a Commission or power were given by the Assembly unto the first Supreme Councell, wee say in the second place, the same or the like commission and power ought to have beene renewed by act of Assembly, and given unto the new Supreme Councell authorizing them to give Commission, to the foresaid committee of Treaty to conclude a peace, and to guide and direct them therein: because, if any such Commission was given by any assembly unto the first Supreme Councell, both that commission, and any other commission given by the Councell in vertue thereof to the Committee of the Treaty, is extinguished, and dyes with the same Supreme Councell, because, as *morte mandantis, so morte mandatarij extinguitur mandatum*, saith the law; as *by the death of* him, that *gives a Commission or mandat*, so *by the death of him* that *receives* it, the *Commission or mandat is extinguished*. If he, for example, that gives or receives a letter of Atturney to prosecute a cause, or to doe any other service, dyes, the letter of Atturney dyes with him. The same wee may say of Agents or Ambassadors sent from or to any Princes or Prelates. Accordingly wee say, that the first Supreme Councell, being removed from that office, are civilly dead, and therefore any authority given them (in this particular) or by them (in vertue thereof) given to the Committee of Treatie (for in these two respects the Councell may be called *Mandatarij* and *Mandantes*) is extinguished and dyes with the late removed Councell.

2. Argument.

L. inter causas ff. mandati & l. & quæ ff. de iurisd. omn. iud. & l. ult. ff de solut. l. si quis alicui §. morte ff. mandati & Instit. de mandato §. reste.

236. It is true that the common power and authoritie given to the Supreme Councell by the Modell of Government may peradventure descend upon the succeeding Supreme Councells, because by the Modell of Government that common power is expressly declared to be conferred by the Kingdome on the Supreme Councell *for the time being*; but the case is otherwise in this weighty matter, whereon depends the securitie and safetie of Religion, King and Subject; and therefore being transcendent and extraordinarie it must be acted by and concluded by transcendent and extraordinarie power; and as the Commissioners appointed to goe to his

Majestie must have beene established and appointed by the whole Kingdome, because, indeed their imployment concerned the whole Kingdome; so (for the same reason) the Commissioners appointed to treate with His Majesties Lieutenant (in this particular) must be authorized (either mediatly or immediatly) by the whole Kingdome; for as much as their imployment concernes the whole Kingdom. If His Majestie did conferre any power or authoritie upon any Corporation, which hee would have to continue in the succeeding Magistrats thereof, hee is carefull in his patents or Charters to use these words: to the Maior, or to the Maior and Citizens *for the time being*, to shew, that his intention is not to make this power personall onely: but in that commission, which the first Supreme Councell pretend to have had from the assembly, there are no such words used, authorizing the *Supreme Councell for the time being*. Much more may be here said, which I leave to our learned Lawyers discussion, whereof some (vnto whom I have propounded this difficultie, have assured me, that (for this respect) the Commission given our Committee of Treaty by the Councell. was sufficienr and inv alid. And when I admired, that the Supreme Councell dared attempt such an enterprize without a full and solid authoritie from the Kingdome, my admiration was augmented by the answer I received from one affected to them, to wit, that the *Councell made no doubt* to conclude all things (as they pleased) by force.

37. The last Supreme Councell was established the second of March 1645. Their Commission to the Committee of Treaty was given the sixt of March following. After diligent search, I found among the assembly acts of that second day of March, this act; *It is ordered that the Supreme Councell, and the Committee of Instructions, as by former order in that behalfe appointed, shall sit this afternoone, and PREPARE all affaires conceaning the Treaty of peace, and with all possible speed dispatch the Commissioners to Dublin.* But neither this *order*, nor any other *former order* I could light on, doth give power or authoritie to this new Supreme Councell to give any commission to the commirtee of Treatie, either to treate or conclude a peace

peace at all, much lesse to conclude such a peace as the committee of Treaty *in their Iudgement* should *thinke fit*, which is the commission the first Supreme Councell gave the committee of Treaty; for which, I am perswaded, they never yet had authoritie from the Assembly. It is one thing *to sit and PREPARE all affaires concerning the treaty which alone this order imparts*; another thing to be authorized by the Assembly to give commission in the name of the Kingdome to the committee of Treary, to conclude what peace they liked, which is the ppint here questioned. But here occurres unto me what I have beene often told, even by members of some assemblyes past, that such (I will not say, Factionists) as precipitated into this abortive peace, had their private cabinet Councels, where they moulded what Orders they thought convenient for their purpose, which they ordinarily presented about the perclose of the Assemblyes; and when they saw such as they thought would oppose them absent; and prepared such as they knew would adhere to them and set forth the matter with a specious glosse, to be present, and so caused such orders to passe surreptitiously, without any deliberation or mature consideration by the house of such orders or of the ends the Moulders of them intended. I suspect this order (though it make little to the present purpose) to be one of those surreptitious orders; the cause of my suspition is, that in the selfe same Assembly 19. February, the whole Kingdome unanimously agreed and promised unto the Lord Nuncius, that they would conclude nothing with the Marques of *Ormond* touching the peace untill the first of May following; what appearance is there then, that the same Kingdome in the same assembly should order, *that with all possible speed the Commissioners* should *be dispatched to Dublin*, and thereupon to *signe and seale* a peace the same moneth, never expecting the first day of May, as they promised; and by that meanes so to entangle the businesse, as whether the Popes peace came or no, by the first day of May, the Kingdome was obliged to embrace *Ormonds* peace, though ever so unjust; and indeed so some of the very Committee of Instructions were perswaded; but the unfolding of this mysterie wee leave unto the assembly,

which,

which, I pray the God of truth to illuminate, and preserve from faction and division.

§. 9. *Other defects proving the insufficiency and invalidity of the said Commission.*

3. Argument.

38. IN the Commission given by the first and last Supreme Councell they authorize the committee of Treaty not onely to *treate* and *agree*, but also to *conclude* a peace with the Marques of *Ormond*, their authoritie herein they father on the act of Assembly past 20. July, 1644. which kinde of act I could never finde among all the acts of Assembly; nay the contrary is evident, as well by both the Acts of assembly above specified, numb. 34. 37. as by other acts, which hereafter I shall expresse, that they had power onely to *treate of the peace*, and to *prepare matters concerning* the same, but not to *conclude* it. I have indeed heard, that our committee of Treatie laboured in severall Assemblyes to have absolute power given them, not onely to *treate* of, but also to *conclude* a peace; but as yet I have not seene any such power granted, neither ought any such power at any hand be granted to any particular men, who by faction, corruption or affection, might be able to destroy Religion, King and Countrey. These men, that desired this absolute power, are knowne to be either of allians with the Marques of *Ormond*, or to depend of him, or to have beene deluded by him with vaine hopes of promotion; wherefore it is not secure for the Kingdome to give absolute power to such persons, how honourable and faithfull soever they may be esteemed to be; neither ought they, if they would avoid the just suspicion of the people, demand it. We must not put the cause of God to compromise to *Achitophel*. If then it appeares cleerely our committee of Treatie had no power to *conclude*, but to *treate of a peace* onely, who may doubt, but their proceeding to a conclusion without commission is altogether invalid? peradventure they may produce some act of assembly (for an act of the Councell or committee of Instructions will not serve their turne) to prove they had not onely power to *treate*, but also to *conclude* such

a

a peace, as they *thought fit*: but hetherto I have not seene any such, and if any such, shall be produced, I trust the Kingdome will be so carefull of its owne honour and welfare, as to discusse the validitie thereof, and the wayes and meanes, which were used in getting forth such an act. It can hardly be exemplified, that foure or five persons in a Kingdome had ever such absolute power given them, as to *conclude* a peace within the same Kingdome for and concerning the most important affaires, that ever could be agitated in a Kingdome, even then, when they might call upon an assembly of the whole Kingdome to try and examine the justice or injustice, validitie or invalidite of the said peace; and that the power should be so unlimitted, as their Commission had no expresse relation to any Instructions, by which they ought to be regulated. That five secular men should be made Supreme Iudges in a Catholique Kingdome of Prelate and Priest, of Regular and secular, of Religion, Church, and Church-livings, of Ecclesiasticall Jurisdiction, administration of Sacraments, celebration of divine service and office, &c. *a seculo non est auditum*, no not in *Henry* the eights owne dayes. *Numquid omnes Cromwelli? numquid omnes vicarij in spiritualibus & temporalibus? numquid omnes Briani?* And this is the third argument, whereby wee prove the invaliditie of the said peace.

39. The fourth argument may be deduced out of the number selected by the kingdome to be of the Committee of Treaty, which was thirteene, as you may observe out of the act of Assembly numb. 34. by which act there was no power given the Councell to reduce them to the number of five, or to a lesse number than 13. This selected number of 13. did belong unto the substance, and (as it were) essence of the commission or authoritie given by the Kingdome, and therefore could not be altered without rendring the commission invalid. When I reade in the commission given by the first Supreme Councell to the committee of Treaty, that the number of thirteene was appointed, and no power mentioned therein authorizing them to diminish that number, I was indeed astonished, and therefore laboured so much the more 4. Argument.

more earnest to finde out, if any act of Assembly there were giving them any such authoritie; at length I lighted on an act past 23. August 1644. Wherein *it is ordered* by Assembly, *that the Supreme Councell shall grant Commissions under Seale from time to time unto such, and so many of the Commissioners nominated and authorized by the house to* TREATE *with the Lord Marques of Ormond for establishing of a firme peace within this Kingdome, or a further Cessation of armes, as the said Supreme Councell, and the additionall Committee of Instructions shall thinke fit.* This act of Assembly may seeme to quell the strength of my fourth argument: Yet I cannot but resume, and urge for my argument against this order 1. that it doth not so much warrant the Supreme Councell to diminish the number of the Committee of Treaty, as it doth limit the power of the said committee; for here (as in the first act of Assembly) no greater power is given them, than to TREATE of a peace, &c. and no power at all to *conclude* a peace. 2. This act seemeth some very suspicious, in as much as the same assembly (not above thirteene dayes before) supposing those seven Agents, who were authorized to goe to His Majestie, to be too little to *treate* with the Marques, added positively six more, as above you have seene, insinuating thereby, that they intended to have that full number alwayes in the Treatie, and no lesse. 3. Here my second argument may seeme to have force; If this act of Assembly, and that other of the tenth of August 1644. were not renewed upon the removall of the old Councell, and institution of the new, the power and authoritie given by those acts seemes to dye, & be extinguished with the old councell, because *mortis mandatis extinguuntur mandata*. 4. The Commission given the committee of the Treaty is not grounded on this act, but on an act of the twentieth of July 1644. above number 34. 5. It must be also grounded on an act of assembly authorizing them to reduce the number of 13. to 5. which act we finde not. 6. how ambiguously soever this act hath beene couched, yet it may seeme to prove that the number should be full 13. for it ordereth that the *Councell* should *grant commission to such and so many &c.* as were authorized, The words (*as they shall thinke fit*) have relation either unto a *treaty of peace*

or

or a *Cessation of armes*, *as* they *thinke fit*; and not unto any reduction of the number of 13. to the number of 5.

40. But here I must not omit to advertise the Reader of the cause of my suspition: as soone as ever the foresaid number of 13. was chosen to be of the Committee of Treaty, forthwith (before they could be sent unto *Dublin*) notice was sent in Post, even by some of the Supreme Councell, to *Dublin*, that such persons were elected, among whom there was one catholique Bishop. The notice was sent by a letter to Sir *Maurice Eustace*, inclosed in a letter to this Supreme Councellors Nephew, then resident in *Dublin*; upon which letter was written, *haste*, *haste*, *post haste*. Whereupon letters were return'd by the Marques of *Ormond* to the Councell (or assembly) that he would not *treate* of any peace with us, if any Catholique Bishop were of the committee. That ever the Marques obtained his desire herein by consent of the assembly I never heard, nay I have heard the cleere contratie, that the assembly resolv'd never to change or diminish the number of that committee. Howsoever I doe not know but this act of the 23. of August was hedg'd in upon this motion, the circumstances whereof I could wish were diligently examined. How his Excellency could deny to *treate* with any commissioners we sent, without disobedience to the Kings command & commission given, I doe not know. The summe is, as he would have a peace of his owne moulding, so would he have a committee pliable to his owne resolutions; and it is remarkable, that when any that was of that same small number of five, which the Councell cul'd out, were suspected to stand constantly for the cause of God and the Countrey, and not to yeeld to the Marques his abject conditions, such art was used, that such kind of persons were then kept from the Treatie, when all things were upon conclusion. Among these was worthy Mr. *Nicholas Plunket* (whom for honour sake I nominate) though hee also past not altogether free from blemish, in subscribing to the command for the publication and acceptation of the peace, wherein so well deserving a man might be excused, having thought all remedy, for redresse to be impossible. Had our people Machabean

Mr. Andrew Moore for this is my Author who saw the letter.

spirits inflamed with Gods love and the advance of his holy Religion, they would select no other out of that 12. but such *Ormond* rejected, and chiefely the Arch-bishop of *Dublin*; and omit no other, but such as *Ormond* would have admitted.

41. Other argumen. against the sufficientie of the Committee of Treatyes Commission may be thus briefely framed:

5. Argument. the commission given by the Supreme Councell was grounded on an act of Assembly made 20. July 1644. no such act appeareth. *Ergo*, their commission given the Committee of Treaty may not subsist, *quia non posita causa necessaria non ponitur effectus, non posito fundamento non ponitur tectum.*

6. Argument. Againe, in no act of assembly can I reade, that the Councell was authorized to give this power to the Committee: *to treate, agree, conclude; &c. a firme and setled peace &c. in such manner as they in their judgements should thinke fit and most availeable for the said Catholiques & generall good of this realme.* Yet this is the power the

7. Argument. Councell hath given them; which how faithfully they have executed, you have already and shall hereafter heare. Moreover their Commission was to *conclude a peace or a further Cessation*: they have done neither; for in their reasons presented to the *Congregation* in Waterford, they confesse they have made no *peace*, but a *pacification*, which they call *a present union with expectancy of an absolute peace to follow.*

8. Argument. For concluding such *pacification*, you see their Commission authorizeth them not. Furthermore, by Commission, the number of five at least were *authorized to treate and conclude the peace*: the articles of peace in the Preface reduceth this number of *five* to *foure*; telling us of a Commission *authorizing them or any foure or more of them to treate & conclude a peace*: such a Commission is not, nor never was extant *in rerum natura.* Ergo,

9. Argument. the peace grounded thereupon is void. In the same preface it is said, *articles of peace* concluded, &c. betweene the Marques on the one part; and these. 7. *Mountgaret, Muskery, Sir Robert Talbot, Dermot O Brien, Patricke Darcy, Geffrey Browne, and Iohn Dillon* on the other part; yet *five* onely of these. 7. concluded the peace: *Mountgaret* and *Dermot O Brien* never *signed, sealed or delivered the peace.* Yea, *Mr. Dermot O Brien* made publique protestation against it, and manifested unto

the

the world aswell his aversion against the proceedings of the rest of the Committee in that treaty, as against the iniquitie of the said peace, for which hee deserves from his Countrey immortall praise. How then is it true that those 7. concluded the peace, when as 5. onely concluded it? These, I trow, are errors, and defects sufficient enough, to prove the insufficiencie and invaliditie of the committee of the treatyes Commission, and consequently the nullitie of the peace thereupon concluded, which we pray all our learned and disinteressed Lawyers to discusse together with those other arguments, we produce in the rest of the paragraphes, and to strengthen the same by their approbation & apposition of the authoritie of our Lawes of England, which I could not well peruse for want of leasure and commoditie.

§. 10. *The invaliditie of the said peace proved by the revocation of our Committees Commission, namely by the protestation of the principall part of the Body politicke of the kingdome & other Inhibitions.*

1. BEsides the nullitie of the foresaid peace by the insufficiencie of our committees commission, wee prove the same by the revocation of the same commission (if it were ought worth) before the peace was concluded. Heare then the Lord Nuncius his protestation.

THE LORD NVNCIVS HIS PROTESTATION.

MOst Illustrious and Reverend Lords,

IVVhereas before the imprisonment of the Earle of Glamorgan, *I abundantly represented unto your honours, that the peace, which then was in agitation, was by many Titles neither honest nor secure, but scandalous in the opinion of his Holynesse & the rest of the Catholicke Princes, and that for that cause, I would in no sort condescend thereunto, and whereas the same (peace after the release of the said Earle) is as yet lesse secure, by reason of many accidents that befell & seeing his Holynesse hath sent Anne me the heads of the peace agreed upon at* Rome, *betweene his Holynesse and her Majesty the*

Glamorgans peace not secure or honourable.

Queenes agent with promise of the Kings information thereof, which heads are both honest by reason of the persons & more ample, then all the points hitherto treated of, and doe promise all the security which may be had in these circumstances, I urge with your Honours, that you expect the Originals of the said heads, & that in the interim no other peace be concluded, but that the Treaty of peace be deferred, least you wrong his Holynes his benignity towards this kingdom, & your Honors incur his indignation together with the aversion of all Princes; chiefly seing that the instrument signed by your selves remaynes in my custody, which before my coming over your Honours delivered, as an answer to Master Spinola *of happy memory wherein you promised to doe in this affaire, whatsoever I upon consideration of the state of the kingdome, should think fit to be done. If otherwise you proceed, I doe (besides the breach of your promise) protest, that I doe not, neyther will I consent unto any peace or change of things or government in this kingdome, untill upon view & consideration of the foresaid heads (of the Popes peace) it shalbe maturely established what shalbe more profitable to this kingdome. And if things be otherwise carried, I protest (though with sadnesse of heart) that all damages, which by this acceleration of peace shall befall the King; Maiesty, and this miserable kingdome proceeded not from the faults of any other, but of those who having postposed the reverence and gratitude due to his Holynesse, doe chuse their owne private affections and interest, to the destruction of the Commonwealth. From the Pallace of our residence the sixt day of February* 1645. stylo veteri.

The Nũcius urgeth the Councell to expect the Popes peace.

The Coũcell promise to complie with the Nuncius.

Your Honours most addicted Servant

Ioan. Baptist. Archiepiscop. Firman. & Nuncius.

2. According to this protestation the Lord Nuncius, the very next day following, to wit, the seventh of February, and againe, the ninth of February, came personally to the assembly, and having declared the affection, and care the See Apostolique had of his Nation (*sometime for learning and sanctity, called the Iland of Saints*) declared that his Holynes (to succour the Catholique Confederates) neglected and postposed the warres by the Turkes against the Christians, by the Swedlanders against the Emperor, and other warres neerer home, that he laboured (and at length prevailed) with

His

His Majestie, that the Roman Catholiques should not onely have and quietly possesse their Church and Church-livings; but also that the Catholique Natives should be made capable of all places of command, honour, profit, or trust in the civill marshall or Ecclesiastique government, together with many other extraordinary graces and concessions; that he daily expected the articles of this peace; and therefore prayed seriously that the conclusion of any peace with *Ormond* (which was the worst of all other peaces) might be protracted, at least, till May, assuring us (if we persevered constantly in the cause of God) that the Popes Holynes and other Catholique Princes would never be wanting to supply the Confederate Catholiques with sufficient meanes and money to maintaine the warre, and that he himselfe in the interim would defend *Leinster* against *Ormond*, in case he condescended not to a cessation for so long a time. This motion was seconded by noble *Glamorgan* by two severall speeches delivered by him in the Assembly 12. and 19. February, which was accepted and entertained by the whole house with such joy and alacrity, as you might descry in their outward gesture their inward consolation.

3. Our councell and committees (contrarie to the resolution of the whole house) would not expect so long: they were not foure dayes chosen, when they gave a new commission to the committee of Treaty to conclude a peace with his Excellency, which was *signed and sealed* 28. March, as you have heard. It was a businesse long before concluded, as you may gather by Iustice *Walsh* (one of the purchasers above mentioned) his speech delivered in the house 10. February; wherein he affirmed that he himselfe *brought all things, points, and matters to a full period according our wishes* with the Lord Marques; but (said he) the imprisonment of *Glamorgan* hindred the signing thereof. Yet I reade in the diurnall of that day, that the chaire-man (*Mr. Thomas Tyrell*) informed the house, that our Agents were in *Dublin* eleven weeks, and yet were not able to conclude any thing. And *Mr. Geofrey Browne* declared in publicke assembly 15. February, that the Marques was *resolved not to conclude a peace, untill we complyed in*

sending

ſending over 10000. *men.* wherein the Marques might have ſpared his labour, the contract for ſending over 10000. men being made by us with *Glamorgan*, and not with him; whoſe peace was not (in it ſelfe) worthy the acceptance onely, much leſſe worthy the reward of ſending over 10000. men for getting it. To be briefe, thus ſtands the queſtion; how dared the Committee of Treatie to *ſigne and ſeale* a peace before the firſt of May, contrary to the Aſſemblyes reſolution; and how dared the new ſupreme Councell (without conſent of the aſſembly) to grant them a commiſſion to that effects. By the relation of Mr. *Browne* and Mr. *Walsh*, you ſee, our committees were not engaged by all the Treaties paſt, to conclude a peace with the Marques: they might without difficultie comply with the Popes Holynes and the Kings ſpeciall commiſſioners requeſt; And this requeſt was made by them, even then when *Glamorgans* articles were in full power, becauſe they held it not altogether ſo ſecure and profitable, when they afterward underſtood, that his Majeſtie proteſted againſt *Glamorgans* articles, doe you thinke, that either they or the aſſembly would ever yeeld, to accept of *Ormonds* ſordid atticles apart; either the May following or for ever: he had more need to beg a peace of us than we of him. Had not the countrey beene betrayed by licencing him to receive his rents, he had beene glad to come off with better conditions, according his Majeſties commands, and provided better for His Majeſtie and himſelfe.

The Clergies ſubſcription to the Nuncius his Proteſtation.

4. Wee alſo the underwritten (Prelates and Clergie of Ireland) doe adhere unto the opinion of the moſt illuſtrious Lord Nuncius, confirming what are above expreſſed. And we doe reſolve unanimouſly to inſiſt upon the

ſame

ſame proteſtation. Dated at Kilkenney the foreſaid ſixt day of February 1645. ſtylo veteri.

Hugo Ardmachanus. Fr. Thomas Dublinienſis. Thomas Caſſelienſis. David Oſſorienſis. Gulielmus Corcagienſ. & Duan. Io. Clonfertenſ. Emerus Clogherenſ. Io. Laonenſ. Fr. Patric. VVaterford. & Liſmor. Fr. Edmund. Laghlinienſ. Nicholaus Fernenſis. Richardus Ardfertenſis & Accadenſis. Edmund. Calamenſ. Epiſcopus & Coadjutor Linericenſ.

Fr. Albertus O Brien. Provincial. Ordin. Prædicatorum. Robertus Nugentius Societatis Ieſu Superior. VValterus Linchæus Vicar General. Tuamenſ. Iacobus Fallonus Vicar. Apoſtolic. Accadenſ. Fr. Oliverus de Burgo Vicar. Duacenſ. Donaldus O Gripha Vicar. Apoſtolic. Finiburenſis. Iacobus Dempſy Vicar. General. Kildar. Cornelius Gafnus Ardaghader Vicar. Oliver. Deiſe vicarius & Procurator Reverendiſſimi Medenſis Epiſcopi. Carolus Coghlan Vicar. General. Cluanenſis.

§. 11. *An abridgement in English of the Lord Nuncius his Latin letter dated the 5. of May 1646. ſent unto the Supreme Councell and committee in the proſecution of the ſaid Proteſtation.*

5. In this letter the Lord Nuncius doth elegantly diſtinguiſh in the Marques of *Ormond* a double qualitie, the one of a Lieutenant for his Majeſtie, the other of a chiefe Peere of the realme. In the qualitie of Lieutenant, hee proves no firme and ſolide peace can be made with him; foraſmuch as his *authoritie depends of the King, and by how much the more or the leſſe the ſecuritie and power of his Majeſtie increaſeth or decreaſeth, it neceſſarily followeth that the authoritie alſo of the Lieutenant increaſeth and decreaſeth, and that the ſafetie and authoritie of the King being uncertaine, the authoritie alſo of Lieutenant becometh void and uncertaine &c. and if this be true in thoſe articles, which belong to the politicke ſtate of the Kingdome, how much more in the Eccleſiaſticall ſtate, and things belonging to the Catholique Faith; againſt which* No firme peace could be made with Ormond.

the

(*he being a Protestant*) *hath an aversion of minde, besides the want of authoritie. Wherefore the Confederate Catholiques ought not by any meanes choose any other way, than by laying aside in the interim any treatie of peace, &c. untill the Kings most excellent Majestie be restored to that state and condition, as he may confirme by Parliament the Articles, which His Holynes agreed upon with Digby in Rome: which thing seemes not onely profitable and necessarie for the affaires of Ireland in the present state, but also honourable to the King himselfe, seeing all things are reserved to his authoritie untill that time, when he shall be in the full libertie of dominion, and the loyaltie of the Irish shall be able to merit somewhat with his Majestie &c. which shall be augmented by the Catholiques publique protestation, that whatsoever they possesse or acquire shall be with all loyaltie and fidelitie preserved for his Majestie*; who otherwise may be wath'd out of all, if Parliamentarie Harpies once fix their Tallons in them.

Inhibition untill the King confirme the peace of Rome.

Fidelitie of the Irish.

6. Hee proceedeth further shewing *how glorious it shall be unto the Confederate Catholiques, that the advance of the Catholique cause, the splendour, libertie, lawes, rites, and publike exercise of Religion, proceeded rather from themselves, and from the innate love they beare to true Religion, than from any treaty with the Marques, whose authoritie lyes a bleeding, &c. All Christian Princes (and chiefely the Pope) would be offended, that any peace (and that of abject conditions) should be here treated of, while the peace (containing honourable and good conditions) concluded upon in Rome doth expect only our Kings approbation; as if particular men (and these Protestants to) could better provide for Ireland, and the Catholique Church; than His Holynes* can doe.

7. If the Marques be considered *as a Peere of the Realme*; in that respect *he may have all things common to the rest of the Irish, and therefore I hold he may be a defender of his countrey against the common enemies. And if he will, as an Irish man, and a servant to his Majestie gather all his forces against the Scots and Parliamentaries, he ought to be received, yea, and to be assisted by money and other subsidies, so as the Catholique Religion by such kinde of conjunction receive no detriment*: for effecting whereof he layeth downe (among other) these conditions; *if it shall ever happen that the forces of the Marquis be joyned with the Catholique forces, that then he may by no meanes establish any other Religion, than the Catholique*

The Church's care that loyaltie be observed to Princes n. 5. 7.

Religion

Religion in all places, which shall happen to be gained by the same armies ioynt together, otherwise the Popes aides, aswell present as future may by no meanes be employed for the advance of Protestantisme, which were impious That the Confederates so treate with the Marques, as our hopes of having or obtayning a Catholique Vice-Roy after the expiration of his time, be not frustrated, which the securitie of Religion doth chiefly require, and His Holynesse doth vehemently desire. Therefore to this end we must be warie, least in the interim, while the affaires of England doe waver, wee doe any thing, which may compell the Nuncius Apostolicus, in the behalfe of His Holynesse, to protest against it, as by his private letters he hath *protested a few dayes past.* Hee addeth further, that *Dublin* be delivered to the possession of the Confederates to be *preserved for the Kings most excellent Maiestie*; that all hopes may be cut off from the Puritans, who *perpetually thirst after the possession thereof, &c.* I trow, this should be a forewarning prevalent enough with our Councell and Committees not to conclude a peace with the Marques upon such base conditions, as they have done.

§. 12. *The Councell and Committee of Instructions Latine answer 1. Iunij 1646. to the foresaid letter and protestation abriged into English.*

8. IN the first place they acknowledge the receit of the letter and protestation, & doe observe the resolution of the Lord Nuncius and Clergie to be such, as he will have *no peace at any hand concluded with the Kings Commissarie, unlesse first the splendor of the Catholique Religion be established, and with the articles published.* In the second place they admire, that the protestation came not sooner unto their hand, and at length they answer, that the *weakenesse and necessitie of the Confederate Catholiques enforceth them to a peace*; that *by publique declaration printed 1642. and by their Agents they sent to the Pope and other Christian Princes to demand aide, & that for the space of five yeares warre, they received not so much succour as would defray the charge of warre for two moneths time; that they looked onely for as much meanes as would maintaine 15000 foote and 2000. horse for six moneths times, and they would undergoe all hazards, and endure all*

discommodities to increase the splendour of the Catholique Religion through all parts of this Kingdome; which they obtained not. *The consideration of these things* (say they) *and the obedience due to his Majestie enforced them to make ANY PEACE to prevent the farall miseries of VVarre, and the sudden ruin of Religion and Nation.*

9. Yet they tell the Lord *Nuncius*, that they resolve to *ratifie* (marke the phrase, I pray you, *ratas habere*) *Glamorgans concessions granted* by the Kings authority, and to endevour by the authority of the See Apostolicke, and the mediation of other Catholicke Princes to obtayne more plentifull graces for the establishing of the Catholicke Religion; that in the Treaty of peace there was place left for further priviledges of the Catholicke Religion. They further affirme, that in *the last treaty at Dublin nothing was done without consulting* the *Nuncius*, and that according his desire, the *Conclusion* (marke that hitherto the peace was not concluded, & therefore they were as yet at liberty to conclude the peace or not conclude it) *and publication of the peace was deferred untill the* Calends of May, least any impediment should be given to the cõditions, which were expected by that time to come, (but are not yet come.) They pray his Grace to take notice, if it shall happen the peace shortly to be concluded and published without the promulgation of *Glamorgans* concessions, that same is *pro re*, and to the greater good of the Religion.

See against this §. 19.

10. They proceede further aggravating the present state of the kingdome in the temporality: *Mounster* exhausted with warre cherisheth many enemies in her bosome, who daily increase by the patronage of the Parliament of *England* and revolt of *Thomond*. In *Connaght* all is wasted (besides *Galway* and *Mayo*,) *Roscoman Boyle*, and other Forts revolting, &c. Generall *O Neyle* hath so wasted *Leynster*, before he went to *Vlster*, that three or foure counties thereof are unprofitable for the plow, and in themselves miserable, &c. They adde the feare of the Lieutenants conjunction with the *Scots*, &c. insomuch, as force, feare, and danger beget in all men a desire to embrace any peace: Besides feare of the *Scots* conjunction with the Parliament, the King being now in their power a peace timely made may alone hinder this, which being concluded,

eluded, the catholickes may serve God and their King, and free themselves from all those evils.

This Letter was signed thus.

Illustrissimæ ac Reverendissimæ Dominationis
vestræ addictissimi, *Muskry.*

De mandato Concilij
& Comitiorum,
Thomas Tyrell.

11. Why the Viscount Muskry alone subscribed hereunto and none else, I doe not know, unlesse it be, because the *ill affected of the Councell* (for so they call, in the Manuscript outside of the Articles, the soundest part of the Councell & those that were not of the faction) did not condescend thereunto.

13. *The Lord Nuncius his Letter* 10. Iunij 1646. *sent to the same Councell and Committee.*

12. *Least I might* (saith he) *in this most waighty circumstance* of things, seeme to have sent unto your honours *two* severall *protestations* without any ground of reason; I pray you would reade the same reasons, which moved me so to dissuade the peace in these times, which is now propounded esteeming me to have beene compelled to write these things out of zeale onely towards Religion, and the *honour of the Catholicks of this kingdome &c.* And having repeated the substance of his foresaid Letter touching the double quality of the Marquesse of *Ormond*, he saith, that *though there could be* a peace made, yet it *ought* not to be made for the following reasons. For seeing nothing is therein established concerning the Catholicke religion, &c. by what meanes I beseech you, may the Catholicke Confederats defend themselves, if (among others) even the Nuncius Apostolicke is to become witnesse among all Christian Princes, that the Catholicks might have better conditions from her Majesty the Queene in *France* the last yeare, and as yet better from the Lord of *Glamorgan* in these later Moneths, and as yet the most plentifull of all concluded by his Holynesse in *Rome*, and yet that the Confederate Catholickes, all these peaces being contemned, after so many moneths cessations, in the very point of new difficul-

Two Protestation sent by the Lord Nuncius.

The good peace rejected; the worse accepted

„ ties in *England*, and after that a full halfe yeare of the time to
„ make warre is past over; yea, when the enemies are all al-
„ most beaten backe, should accept of a worse peace, than the
„ other three; Let every conference beare witnesse, whether
„ by such a resolution the Oath of Association taken with such
„ glory and constancy be not violated.

„ 13. It is therefore manifest, unlesse first the Catholickes
„ be assured, that the Kings Majesty would ratify the Earles
„ authority, and that the Queenes Majesty hath cleerely un-
„ derstood whether the Popes conditions shall have place, or
„ no, whatsoever shalbe done, shall tend to the evident destru-
„ ction of this kingdome, and to the extirpation of Religion
„ (which is the head of all) and to the notable injury of the
„ Princes, who hetherto have laboured for the safety and secu-
„ rity of the Catholicke Confederats; which is so much the
No reasonable motive to conclude this peace. more true, seeing no reasonable motive can be assigned by
the adverse party for *concluding this peace*. Then answering to
the objection of the danger of the *Scots*, he saith there is no
danger of more *Scots* to come over this season being busily
imployed elsewhere, and as for those, that are in *Ulster* and
Connaght, they are sufficiently provided against, by two Ar-
„ mies maynteined by the Popes moneys. *There remaynes there-*
„ *fore onely the Lord Marquesse* his forces: and those forces, how
„ great are they, that they may not be repulsed? And seeing we
„ neede not feare the enemies this yeare, why should not wee
„ hope that even the souldiers that are in *Mounster* may, after
„ this present expedition, be turned to the defence of *Leinster*,
„ and by what other wayes soever to preserve *Leynster*. Where-
„ fore (right honourable) it must be concluded, that that peace
New warning not to conclude a peace. must in *no sort be made*; neyther must it be treated of, before
the things mentioned be notifyed unto you, least by an ima-
ginary utility of repose, you leese your estimation with
Christian Princes. Be these spoken over and above, what in
my *Protestations*, and in my letters to the Supreme Councell
„ I have sufficiently declared, praying that your Honours
„ would ponder them with the same spirit I wrote them,
„ namely for the sole increase of the Catholicke Church, and
„ the true and solid felicity of *Ireland*, which felicity God alone

and

and the Catholicke faith is able to give, all things elſe concluded, whatſoever the world, and the followers thereof can ſay. Thus farre elegantly & religiouſly the Lord *Nuncius* in Latin.

§. 14. *An abridgement in English of a third Letter in Latin dated 25. Iunij 1646. and ſent to the ſame Councell and Committee by the Nuncius in anſwer to their Letter.*

14 HAving acknowledged the receipt of the Councell and Committees letter above mentioned, hee firſt ſhewes wherefore he did not ſooner communicate the proteſtations to them., Know therefore (ſaith he) that therfore the ſaid proteſtation hath beene made by me, when in the moneths paſt, it was vehemently doubted, (and not without cauſe) that the Supreme Councell and Committees would then by all meanes conclude a peace with the Lord Lieutenant, and not expect the articles tranſacted between his Holyneſſe and her Majeſty the Queene of *England*, and by conſequence that they would preferre any other peace before the Popes peace, which contayned moſt honourable and moſt plentifull conditions for this kingdome. And when I preſented this my griefe unto the Prelats & Clergy, they (without reluctancy of any) ſubſcribed to my opinion, according to the reverence they ought and doe beare to his Holyneſſe. But wherefore the proteſtation was ſuppreſſed, I alone am the cauſe thereof, being not willing to ſhew it, untill I were compelled through great neceſſity, and deſiring (for the love and obſervance I beare your honours) that it could be perpetually ſuppreſſed, but wherfore I have in this preſent ſtate of things manifeſted it: this was the cauſe; that your honours might ſeriouſly conſider that both Clergies are yet much more ready to ſubſcribe unto it againe, if any peace be concluded, that may be any way ſcandalous or leſſe honourable for Religion, when as for the expectation of the articles of Rome they ſo readily ſubſcribed thereunto. Why the proteſtation was made & for a while concealed. The treaty of peace not diſcovered to the Nuncius.

15. He denyeth that they communicated unto him the manner of their proceeding in the treaty, ſaying, though they ſtill

ſtill informed him of many miſſions of the Committee to *Dublin*, yet it is alſo certayne, that they never ſpoke unto him untill the moneth of March of the peace with the Marqueſſe now ſubſcribed, nay it was expreſly denyed, although I oftentimes ſhewed that I underſtood from many places of ſuch a thing, and when after the notable declination of the Kings Majeſty, and the wonderfull change of the ſtate of things, I wrote two letrers to your honours, the one the 27. of April the other the 5. of May ſent from *Kilkenny*, wherein I endevoured to ſhew that no peace could be made with the Marqueſſe, &c. I vehemently grieved I could get no anſwer to them, neyther were the letters publickly reade in the Committee, nor the reaſons pondered, &c. whereof there can be no other cauſe, than that hidden concluſion of peace, which could be no way diſsembled, if anſwer were given. Whence I might eaſily ſuſpect that, which for many moneths hath beene bruited, namely, the magnificent proclaymiug of the communication of all matters with me, and my conſent thereunto that by ſuch reports the people might be drawne with more alacrity to conſent unto this intended peace. Which thing (moſt Illuſtrious Lords) impoſed a great neceſſity on me (if an honourable peace were not concluded) to admoniſh the kingdome and the chiefe Cities thereof, that I never give aſſent thereunto, leaſt I ſhould ſeeme by my ſilence and preſence to blemiſh the moſt holy intention of his Holyneſſe, who urgeth nothing more, than this free & publike exerciſe of the Catholicke Religion, &c.

The Nuncius never aſſented to Ormonds peace.

16. Vnto the *neceſſities* alleaged by the Supreme Councell and Committee, he anſwers, no neceſſities could be ſo preſſing as to *force* the *Confederats to make any peace, or to accelerate politicall concluſions* without an honourable addition of things Eccleſiaſticall alſo, &c. and that the cauſe, why ſuch plentifull ſuccours, as they expected from *Rome*, came ſhort of their expectation, was, that at *Rome* it was held that the Supreme Councell & Committees by their Ceſſations with the Lord Lieutenant did corrupt the good ſucceſſe of the affaires, and the progreſſe of their victories, whereby they injur'd themſelves and his Holyneſſe, which opinion grew ſo ſtrong in

Anſwers to the neceſſity.

Court,

Court, as the same was insinuated by the sacred Congregation unto the Nuncius himselfe, when he was there, & among those of the wisest sort grew so violent, as it can hardly be now blotted out. He addeth further, though the succour by himselfe brought being considered abstractively, were indeed very little, in respect of what his Holyneslie, and other Princes of Italy together with the cardinals, resolved to send; yet ought they to be esteemed much considering the povertie of the See Apostolicke, which by the last warres was in a manner exhausted, and the charge of sending hither an Archbishop, a Nuncius Apostolicke, &c. which was an undoubted pledge of further succours from time to time, neyther ought they to be esteemed small succours, without which the Armies could not be timely sent into the field this yeare, and by which in *Vlster* two great victories have beene obtayned, & a whole province freed, & such a slaughter made of the enemy, as was not heard of these foure hundred yeares, which with the hopes of *Prestons* victories in *Connaght* are strong arguments, that the monyes given by the See Apostolicke for the advance of the Catholicke Religion doe bring forth immense fruit, even to miracle, if with due confidence & estimation they be received & employed.

17. He urgeth the affaires of *Vlster* to proceed so well, as that Province was never in better condition, & that the proceeding of *Connaght* was not of lesse hope, and that if *Bunratty* were besieged, as it ought, the Army that was in that Province might be sent to *Mounster* and so three Provinces recovered in the residue of this Summer. *Wherefore* (saith the zealous and incomparable Prelat) seeing the Marquesse of *Ormond* alone remaynes, who may oppose himselfe to the Confederats, I pray you, what reason have you, why you should feare him, if he may neyther joyne with the *Scots* now overthrowne, and that he is in such want of monies, as hee hath beene forced to beg three thousand pounds from your Honours these later moneths to make up souldiers, for from *England* there is no danger that any succours shall come unto him this Summer. Give me leave (right Honourable) to speake freely to you, this favour & miracle of heaven requires

No cause of feare.

from

„ from you some compensation or thankesgiving; this can ne-
„ ver better be payd by you, than by laying aside all feare, and
„ by increasing your confidence in the divine ayde.

18. He goeth on egregiously shewing, there was no necessity on our part, nor any power or authority on the Marquesse his part, to make a peace; that more prejudice would arise by such a peace, than by warre, as first the dishonour, which thereby might redowne to the Nuncius. Secondly, the dishonour unto the whole Nation among Christian Princes abroad. Thirdly, the distaste of the See Apostolicke, that the worst of all peaces should be preferred before his, which was the best of all. Fourthly, that it was as good to make no peace at all for the Church, as to trust *Glamorgans* peace being now recalled by his Majesty, by *Glamorgan* himselfe abandoned, and the condition no way performed. Fiftyl, the ruin of the Catholicke Faith by raysing unto the chiefe government a Protestant Lieutenant. Sixtly, the danger of resuming Armies, when the enemy is put in the height of authority and power. Seventhly, the assurance of no reconciliation with the Pope, if the peace were concluded. Eightly, the exile of the Nuncius. Ninthly, the just feare of loosing whatsoever the Confederate Catholickes have gayned.

More prejudice by this peace, than by a warre.

19. He forewarnes them of their dishonour among Catholicke Princes, to whom he must *publickely notifie his different* from that peace, and *adviseth them* by no meanes to goe forward in the peace, and if there were any difficulty, that a *Generall assembly should be called upon* to determine the same the least mischiefe should fall on their owne heads alone, and least they might be thought to have examined lightly and contemptibly the Popes reasons. Thus farre the Apostolicke Legat, where you are to observe that after this answer was made by the Lord Nuncius, and before the peace was legally concluded *Buntatty* and *Roscomon* were gayned by the Catholick Confederats, and *Prestons* Trophyes erected by purging all *Connaght* (*Sligo* onely excepted) of the *Scots*, whereof more numb. 32.

§. 15. *The Authors observations on the Councell and Committees Letter above mentioned §. 12. and their reasons to conclude this peace refuted.*

20. THe Author observes in the first place that the Councell and Committee acknowledge the receipt of the Nuncius and Clergies protestation against any peace to be made with the Marquesse of *Ormond*, together with the Lord Nuncius his letter to the same effect. In which the Nuncius declares the cause of his opposition to such a peace, namely, *untill first the splendor of the Catholicke Religion be established, and with the articles published.* For this cause chiefly the Catholicke Confederats tooke up armes, as appeareth by their severall Declarations, Remonstrances to his Majesty, solemne Oath of Association, Modell of government, and severall acts established and published in both the Assemblies held in Midsummer 1645. and February 1645. The same is confessed by the Councell and Committee in this very answer sent by them to the Nuncius: *Templa, ædes sacræ, altaria, aut hæreticorum polluta inservichant vesania, aut solo æquata jacuerunt penes Protestantes, &c. pro aris & focis & Regis sui indubitato jure bellum inermes moverunt.* See as yet more amply in their owne Declaration, and other evidences hereafter to be produced. upon these grounds, and upon the promise made by the same Councell under their owne hands, and delivered to Master *Spinola* that they would never make any peace, but what the Lord Nuncius would consent unto (whereof mention is made in the Lord Nuncio his protestation above, and hereafter shall be made more fully) the Lord Nuncius (and with him the Clergy) confidently avouched he would never consent unto any peace, *untill first the splendor of the Catholicke Religion were established and with the articles published.* With the Lord Nuncius and Clergy agree the soundest and all the disinterressed part of Councell and Committees, whom those others, who concluded this pacification, or *peace in expectancy*, terme *the ill affected of the Councell*, &c. and with these also conspire the whole kingdome in their severall protestations and acts

publiſhed in the Aſſembly held in Midſommer 1645. namely, 2. 4. 9. 11. 13. Iunij 1645. and 14. 18. 21. 28. of Auguſt, and in the aſſembly held in February 1645. namely, 5. 7. 9. 10. 12. 19. &c. The two powerfull Armies (ſuch as never yet were ſeene in *Ireland*) rayſed and gathered together on a ſudden (even then when the late Councell had exhauſted Pope Clergy and kingdome) to defend the publicke cauſe, doth confirme the generall diſſent of the Confederat Catholickes from that illegall unſafe and unſecure peace, which defence had proved the moſt fortunat to Religion, King and Countrey, that ever *Ireland* ſaw, had not faction and ſedition, preverted the happy ſucceſſe thereof. But *Expecta Dominum viriliter age & confortetur cor tuum.* By all which it appeares how far they erred, who in their foreſaid anſwer to the Nuncius affirmed that the chiefe Cities, Counties, and Commanders were glad to embrace *ANY PEACE*, &c. Experience hath taught them ere now, the contrary, notwithſtanding the multitude of conſpiracies wrought to ſeduce ſuch Cities and Commanders.

21. To prove the revocation of the Committees commiſſion by the ſaid proteſtation, wee ſay, that as the body politicke of this Kingdome is compoſed of two parts, the ſpirituall and the temporall, ſo ought not the temporall part alone aſſume ſuch authoritie to it ſelfe, as to *conclude a peace* for the whole body, even then when the ſpirituall part poſitively reſiſted. That the temporall part ſhould diſpoſe of the lives, livelyhood, liberties and eſtates of the ſpirituall part, at their owne pleaſure without their conſent, was a ſacrilege practiſed in the apoſtaticall dayes of *Henry* the eight, yet did he ſtill preſerve the Catholique faith, and eſtabliſhed ſeverall acts of Parliament for ſecuring thereof, onely hee erred in the point of Supremacy. In our dayes the one and the other is taken from us, a few ſecular men not only diſpoſe of the lives, livelyhood, liberties, and eſtates of the Church; but alſo diſtroy Faith and Religion, by giving the ſame over unto the Tutelſhip of the ſworne Enemies of Faith and Religion, and (as if they were emulous of the proſperitie of holy Church) have renounced thoſe great graces, which our Soveraigne conferred on us, for the conſervation and free exerciſe of our

Religion

Religion, and accepted of his ſubject (whom they know to have, at leaſt, indirectly, vowed the ruin of Religion) abject pernicious conditions deſtructive to Religion. Nothing now is wanting, but that they imitate the monſtrous Parliament in England, who after taking away Church and Church-livings, Faith and Religion, have at length diſcarded the Prelats, and chiefe Paſtors of Faith and Religion, but as that body is monſtrous without a head; ſo is it imperfect without the chiefe members thereof: *nam & corpus non eſt unum membrum, ſed multa &c. quod ſi eſſent omnia unum membrum, ubi corpus? The eye cannot ſay to the hand, I nee de not thy helpe: nor the head to the feete, yee are not neceſſary for me*; The error had been more groſſe, if the temporall or materiall part of either naturall or politicke body did ſay to the ſpirituall part, *I have no need of thee, you are not neceſſary for me*: If the body did ſay unto the ſoule, or the Lay-man to his ſpirituall Paſtor, *I have no need of thee.* Wee have had onely one Church man (the right Reverend the Archbiſhop of *Dublin*) among thoſe 13. perſons, who were ſelected for the committee of Treatie; but they made uſe of this Prelate in the Treaty, as accomptants doe cyphers in numbers. If the Clergie attempted to conclude a peace for temporall matters without conſent of the ſeculars; what thinke you; would not the ſeculars be juſtly offended with the Clergie, and reject ſuch a peace? How much more reaſon hath the Clergie to be offended with thoſe few ſeculars that attempted (and that without commiſſion) to conclude a peace in matters of Faith and religion, of Church and Church-livings, of ſacrifices and Sacraments without their conſent? The principall end of our warre being to repaire & propagate the Catholique faith and to vindicate the injuries done unto the Profeſſors of the ſame, who ought rather to approve, authorize, or proſecute the ſame, than the prime Prelates of faith and religion? *yee ought to know* (ſaith Pope *Leo* the fourth Supreme Paſtor of holy Church) *that wee never permit our*

Scire vos oportet quod nunquam ab aliquibus noſtris homines ſinimus opprimi: ſed ſi neceſſitas nulla occurrerit, præſentaliter vindicamus, quia noſtri gregis in omnibus ultores eſſe debemus & præcipui adiutores. Leo. 4. habetur c. 23. q. 8. cap. 8. omni timore ac terrore depoſito contra inimicos ſanctæ fidei & adverſarios omnium Religionum agere viriliter ſtudete: novit enim Omnipotens, ſi quilibet veſtrum moritur, quod pro veritate fidei, & ſalvatione patriæ, ac defenſione mortuus eſt, ideo ab eo præmium cæleſte conſequetur. idem ibid. cap. 9.

our people to be oppressed by any, but if any necessitie occurre we defend them without delay, because we ought in all things to be defenders of our flocke, and chiefe assistants: for Bishops ought not onely to be keepers of Papers, but also defenders of Churches. Wherefore the same Pope writing to the French army exhorts them, *having layd aside all feare, to endeavour manfully to set upon the Enemies of holy faith, and the adversaries of all Religions: for the Omnipotent knowes, if every one of you should happen to dye, that ye dye for the truth of faith, and saving of your Country and defence of Christians, and therefore yee shall receive from him a celestiall reward.*

22. Much more might be alleaged aswell out of the said Pope, as out of others, whose steps have been traced by the late Pope *Vrban* the eight, and the now Pope *Innocent* the tenth, in their severall Apostolicall Missives addressed unto the confederate Catholiques authorizing their holy warre and exhorting them to the prosecution thereof, which because the same is elsewhere treated of, I omit in the present Survey; I will onely here summarily lay downe what in other Canons (touching the Ecclesiasticall power to make warre) are more amply to be found. *In the power* granted to Saint *Peter*, and his successors, *there are two swords, a spirituall and a temporall &c. he that denyes the temporall sword to be in the power of* Peter *understands not rightly the word of our Lord, saying, put up thy sword into thy sheath Matth. 26. Both then, to wit, the spirituall and materiall sword, are in the power of the Church, but this indeed to be imployed for the Church, that by the Church; That by the hand of the Priest, this by the hands of Kings and Souldiers, but at the command of the Priest. But one sword must be under the other, and the temporall authoritie must be subject to the spirituall power. By the Popes Edict warre is made not onely against heretickes, the enemies of faith & other Rebells, but also when his knowne subjects* (the Catholicks) *are oppressed. Hee may lawfully proclaime warre, not onely against Infidells, but grant tithe also for so pious an act, seeing that such a warre tendeth to the defence and ampliation of faith; and to the recoverie of the lands, wherein they have been robbed, and wherein Christ was worshipped; as also because by this warre the common profit aswell of the Clergie, as of the laytie and Churches is procured.*

See Mercur Apologetic. position. 1. ex can. extrau. commu. lib. 1. tit. 8. de major. & obed c. 1.

Vbi sup. ex lac. de Graffijs decision. 28. & canonib.

23. This much I have expressed for the information of

our

our seculars, to the end they may take notice, that as a warre for the reparation and propagation of the Catholique faith is authorized by holy Church; so a peace concerning the same faith ought to be established and concluded by the same Church; and not by any private Lay-men, whereof some peradventure have possessed themselves of our Church-livings by the oppression of *Henry* the eight, who therefore cannot but be partiall Iudges in their owne cause, howbeit *trepidaverunt timore, ubi non erat timor*; the Clergie of *Ireland* preferring the publicke good before their own private interest, are ready to renounce their interest to such Church-livings, according the dispensation & relaxation made or to be made by the See Apostolique, and according the unanimous resolution of the kingdome assembled together. The punishment inflicted by God on *Vzias*, *Ieroboam*, and other seculars for intermedling with spirituall affaires, *invitis Sacerdotibus*, may be a sufficient caveat for others to decline such negociation. Neither ought they thinke it strange that Church-men should interpose themselves in martiall affaires, especially when the same concernes Faith and Religion; herein they have as paterns to imitate the Prince and high-Priest *Mathathias*, and his posteritie, the noble *Machabeans*, *Iudas Machabeus*, *Ionathas*, *Simon*, *Iohn*, *Onias*, *&c.* who in defence of holy Church, and their Countrey liberties defeated *Apollonius*, *Seron*, *Lysias*, *Ptolomeus*, *Nicanor*, and *Gorgias*, chiefe commanders for King *Antiochus* & his sonne. More for the present I omit; for indeed this matter deserves a speciall treatise. Our conclusion upon this first observation is, that the committee of Treaties commission (if it were ought worth) was sufficiently recalled before the conclusion of any peace) by the chiefe members of the body politicke of this Kingdome, to wit, the clergie, who are the spirituall members thereof, and with all by the authoritie of the See Apostolique, to whom it belongs to make peace or war in like case; Especially when the secular Prince is not able to redresse the subjects grievance. See n. 46. &c.

1. Mach. 2. 66. c. 3. 11. 23. c. 4. 20. 34. c. 10. &c.

24. In the second place I observe, our late Conncell and Committees have violated the publicke faith and promise made by them to the Nuncius Apostolique, assuring him they

they would never conclude any peace, but that whereunto he would condescend, upon which conditions he came into *Ireland*, and they accordingly accepted of him. Hereof the Nuncius challenged them in the above protestation; but their silence in not answering thereunto argues their tacit confession of breach of promise. I doe not know what conscience men may frame unto themselves, to send into Rome by letters and Agents, praying the See Apostolique, to helpe and honour this Nation with a Nuncius Apostolique, and after so great a Prince and Prelat (having exposed himselfe to many dangers by Sea & by Land) arrived in this Kingdome with full and ample power to aide and assist the confederate Catholiques, not onely by his councell and advise, but also by the contribution of moneyes and ammunition; to make use of him to serve their owne turnes, but never to follow his wayes or direction, never performe what they promised, but lurkingly to proceed in the conclusion of this miserable peace. Whereof the Nuncius being privately advertised, and observing the sudden sending of the committee of Treaty to *Dublin*, challenged them of their promise; unto whom by their letter *dated at Kilkenny mense March* 1645. they answered that the committee *concluded no articles of peace, neither could there be any articles of peace perfected or have any power before the Calends of May, and that nothing was done contrarie to the sense of the paper signed and delivered to his most Illustrious domination*, and therefore *prayed* him to *give credit unto them, professing these things*. Its not without mysterie, that the day of the moneth of March is omitted in this letter: least they should be found guiltie of notable falthood; for at this very time were the committee in *Dublin* actually labouring in drawing up the articles of peace, and in *signing and sealing* the same; for (if you be remembred) their commission was given them the 6. day of the same moneth of March, the draught of the Articles was given *Mr Darcy* by the Viscount *Muskerie* on the 14. of the same moneth, and *signed and sealed* on the 28. wherefore the councell did purposely abstaine from putting to the letter the precise day of the date thereof, to conceale their owne sinister and clancular proceeding in concluding that peace, con-

trarie to their promiſe paſt unto the Nuncio, which in this laſt letter of the firſt of Iune they tacitly confeſſe. But by their good leave, they went beyond their commiſſion; for neither had they, nor our Committees of Treaty any further power, but *to prepare all affaires concerning the treaty of peace*, not to *conclude* the peace, as appeareth by the act of Aſſembly, dated the ſecond day of the ſame moneth of March.

Twelve anſwers refuting the obiection; affirming that the Lord Nuncius deſired to protract the peace with Ormond no longer than untill May.

25. IN this Letter of the firſt of Iune the Councell and Committee of Inſtructions affirme that, *according to the deſire of the Lord Nuncius the concluſion and publication of the peace was deferred untill the Calends of May, leaſt any impediment ſhould be given to the conditions* (of peace) *which by that time were expected from Rome.* Whereunto anſwer is made firſt, that as they broke their firſt promiſe freely made unto the Nuncius by that Inſtrument, which they delivered to *Spinola*, whereby they obliged themſelves never to conclude any peace, but what ſhould bee to his liking; ſo here alſo have they fouly broken their promiſe by *ſigning* and *ſealing* a peace on the 28. day of March, which was upwards of a moneth before the Calends of May, which they themſelves (in their confirmation of the peace) doe call a *concluding* or *agreeing upon, &c.* Secondly, I anſwer that in the diurnals of the aſſembly held in February 1645. I reade of an agreement paſt betweene the *Lord Nuncius, Glamorgan*, and the committee of Inſtructions, which was publiſhed in the aſſembly by *Glamorgan* 19. of February 1645. but this agreement, or *happy concluſion of peace* (for ſo my note termes it) *could not receive full ſatisfaction untill May.* How the ſelfe ſame committee could without breach of faith conclude, or give order to the committee of Treaty, *to ſigne and ſeale* a peace the 28. of March following, contrary to this agreement, I conceive not. Thirdly, I anſwer that the *full ſatisfaction*, which by May was expected, was the coming of a *more ſecure, more honourable & more advantagious peace* from

1 Anſwer

2. anſwer

See here after §. 19.

3. anſwer

from Rome; which was in agitation betweene his Holyneſſe and our Queene, then *Glamorgans* owne peace, which the Nuncius publickely declared in the aſſembly 9. of February 1645. But as the hereticks of *England* did hinder this *more ſecure & more honourable* peace from the Pope, ſo did our counſell and committees (I meane ſtill the corrupt part of both) hinder not onely that peace, but *Glamorgans* peace alſo; for their prepoſterous acceleration of the *ſealing and ſigning* of *Ormonds* diſadvantagious and unwarrantable peace, could produce no better effect, than to give occaſion to his Majeſty to recall *Glamorgans* peace, and to give command to deſiſt in the proſecution of the Treaty with his Holyneſſe, his Majeſtie having once notice that the Marqueſſe of *Ormond* had concluded with us upon farre inferiour conditions; for we are to know that this unjuſt peace was a moulding halfe a yeare before, and that the Marqueſſe had time enough to informe his Majeſty thereof, thereby to invite his Majeſty to the revocation of *Glamorgans* Commiſſion.

The 4. anſwer. 25. Hence proceedeth a fourth anſwer? that the Lord Nuncius ſeing the delay of the Popes peace, and the revocation (though invalid) of *Glamorgans* peace before May, verie providently and carefully ſent unto the counceil and committee of Inſtructions before the Kalends of May the foreſaid proteſtation made by himſelfe and the clergy againſt any peace to be made with the Marqueſſe of *Ormond*; and leaſt that ſhould not prevayle with them, he ſent unto them (before May alſo) his ſpeciall letters dated the 27. of Aprill inhibiting them from proceeding on *Ormonds* peace, which he confirmed by thoſe three other letters of the 1ſt of May, 10. and 27. of June above mentioned, which (I trow) was a ſufficient revocation of any allowance they could pretend to have had from the Nuncius to conclude a peace with *Ormond* after May; a thing neyther he nor any good catholick would ever conſent unto, having ſeene the revocation of *Glamorgans* peace, and the damnable practiſes of his and our adverſaries, & for this very cauſe the Nuncius ſtiffly denied at *Limmericke* (as is ſaid) to give his benediction to any of our committee of Treaty going to *Dublin*, *Blunket* onely expected, whoſe reluctancy

ſuctancy and averſion againſt that unhappy peace is well-knowne.

26. Here I muſt prevent ſuch nimble wits, as thus argue: the Nuncius deſired the concluſion of the peace with *Ormond*, ſhould be protracted *untill May*. *Ergo* he conſented, it ſhould be concluded after May; this conſequence I deny, as they themſelves would deny this ſequel, if one bidding them adieu, would ſay, *God be with you untill I ſee you againe*. Ergo he mindeth that *God ſhall not be with them, after he ſee the againe*. *Vnto Micol the daughter of Saul* (ſaith the holy Text) *was there no childe borne untill the day of her death*. Will out committees or any other theace inferre, by reaſon of the word (*untill*) that ſhe had a child after her death. *Vntill heaven and earth paſſe, one iot or one tittle, ſhall not paſſe of the law*. It followes not that after heaven and earth paſſe, that then the law ſhall paſſe. He had beene an *Helvidian* hereticke, who againſt our bleſſed Ladies perpetuall and unſpotted virginity, would inferre out of this paſſage of the Scripture: *Ioſeph did not know our Lady untill ſhe brought forth her firſt begotten child*. Ergo he knew her after. More you may reade in the Scriptures, Fathers, and Schoolemen. It is knowne what ſiniſter practiſes the corrupt part of that councell and committees, uſed in this matter, when they pleaſed to ſay a peace was concluded with *Ormond* (to hinder any other peace) it was and muſt have been ſo; when they pleaſed to ſay there was no peace concluded with *Ormond* (for their owne advantage) it was ſo: and their faction grew ſo ſtrong, and their Art ſo induſtrious, as in our later aſſemblies, they ſeemed to rule and governe faith and religion, kingdome and people, as they pleaſed. That would I once ſee well diſcuſſed, how and by what commiſſion the committee of Treaty *ſigned* and *ſealed* the rejected peace before the Kalends of May, contrary to their owne promiſe and the promiſe made by the whole kingdome to the Nuncius? By what commiſſion or authority did the late councell and committees immediatly after the *ſigning* and *ſealing* of that rejected peace betray the country in ſending over *Digby* into *France*, there to make a faction, and by the power of the Armes of *France* to force that unſafe peace upon the

The 26. anſwer.

2 *Reg.* 26.

Matth. 5. 19.

Matth. 1. 25.

Matth. 28. 20.

Pſal. 109. 1.

Chryſoſt. in c. 1. *Matth.*

Hier. ibid. & contra Helvid.

See hereafter. §. 18. 19.

confederate catholickes of *Ireland*, & upon sending him over, to racke this kingdome by taking up by force 1200. or 1500. pounds in money from the catholickes to furnish a knowne adversary to Religion and country in that voyage, and to disappoint the kingdome of the best Shipping they had by trusting the same unto him?

27. It hath beene observed, that the late Supreme councell and committee of Instructions have exhausted this distressed Nation in succouring & relieving, maintayning and supplying with monyes the two greatest adversaries to Religion and countrey, that ever *Ireland* saw; & have evermore substracted all meanes & sustenance from the two great Noble Catholicke subjects *Antrim* and *Glamorgan*, who have been chiefly intrusted by King and country to bring these unhappy disorders to a happy attonment. By publicke Assembly *Antrim* was allowed to carry into *Scotland* a certaine number of men for the Kings service, & to defray that charge a considerable summe was granted unto him by the catholicke confederats. Our late councell by influences (as is said) from *Dublin*, cross'd all that designe, and had stop'd the Marquesse of *Antrim* himselfe, had he not timely slip'd anker, and got him away. Can there nothing bee done for Religion, King or countrey but by the adversaries of Religion, King and countrey? Ah, let never any inordinat affection towards any privat subject diminish in any their zeale to Religion, loyalty to soveraigne, & love to their owne native countrey? Mr. *Brent* the Lawyer standing neere the crosse of *Kilkenny* seing proper Irish gentlemen walke in the streets, was heard to pronounce thele words, or words to that effect, *were it not pitty that these proper gentlemen were forced to employ their armes against, and kill one another, which undoubtedly they will doe, if they accept not of what peace the Marquesse of* Ormond *will prescribe unto them.* The very like words he was heard to iterate in *Dublin*. Doctor *Meara* wrote from *England* to *Dublin* to a friend in *Dublin* words to this effect: *Here* (with the King) *all things concerning* Ireland *are squared according the rule prescribed by your great one there, his will is that the dismembred Parliament there* (in Dublin) *continue, and prayed the King to turne the* Irish *over unto him.*

him, and he would draw them to what conditions he pleaſed. Others ſay, the ſame great one proteſted, *That he would ſpill the leaſt drop of bloud that runne in his veines before he would ſuffer the leaſt luſtre of the Proteſtant Church to be diminished.* Whether he meant the Church, which the Kings Majeſty cals *proteſtant Church*, or that Synagogue, which the parliament in theſe later dayes hath baptized *proteſtant Church*, I leave to the interpretation of his owne ghoſtly father in *Dublin*. See the Marqueſſe his Treaty with the Parliament Commiſſioners. *pag.* 21. 6. Anſwer

28. When the Councell and committee promiſed under their hand unto the *Nuncius*, that they would conclude no peace, but what would be to his liking, they limitted no time, untill May or Mid-ſomer; neither did the Nuncius or Congregation in their ſeverall proteſtations made againſt any peace to be ſo concluded with the Marques of *Ormond* limit any ſuch time. It is therefore certaine, that neither Nuncius nor Clergie did ever conſent, that ſuch a peace ſhould be concluded after May. Yet if wee did ſuppoſe a falſhood, that they conſented a peace ſhould be concluded after May, with the Marques, it followeth not, that they conſented, ſuch a peace ſhould be concluded, which is knowne not to be the ſame with that, which then (in the moneth of February & Auguſt) was in agitation, and publickely reade in the aſſembly, as we have obſerved in the firſt part, chiefely on the firſt article. Nay, if we may give credit unto ſome of integritie, who were of the Committee of Inſtructions, thoſe very articles, which were read among themſelves privately, were notably changed unawares of the ſaid committee. Matters were carried with ſuch ſecrecie, as they were not communicated unto any diſintereſſed perſon of Councell or Committee: for, *qui male agit, odit lucem.* Againe, though we did ſuppoſe, that not only the Nuncius and Clergie, but alſo the whole kingdome ſhould once conſent, yea, authorize the committee of Treaty to goe forward in the peace with the Marques, which once was read in Aſſembly, being then aſſured of the full benefit of *Glamorgans* peace, and in expectation of the Popes peace, doth it therefore follow, that when this aſſu- 7. Anſwer 8. Anſwer

rance of *Glamorgans* peace was taken away and our expectation of the Popes peace frustrated, the same consent of Nuncius, Clergie and Kingdome, together with the mandat given to the Committee of Treaty, must still remaine, especially when that very peace, they concluded with *Ormond* put an obstacle not onely to the benefit of *Glamorgans* peace, but also to all other peaces. the law tells us that in this case the mandat or commission given is extinguished: *extinguitur enim mandatum mutatione statu in deterius. consensu autem conditionatus sublata conditione tollitur.*

L. Si cum & l. cum quis ff. de solut.

29. Out of all which the Reader may resolve that objection, which the Councell and Committees commonly object against the Clergie, as if the Clergie themselves did agree and consent in all points unto this peace, for (say they) the Archbishop of *Tuam* in open assembly, admonished us not to trouble our selves about the affaires of Religion & Church; for (saith the Archbishop) *the Clergie are fully satisfied, and doe rest content with what already is agreed upon concerning that particular.* Words to the same effect I reade in my diurnalls of the assembly 19. 20. 23. February 1645. wherein the Nuncius himselfe confirmed the above mentioned speech of *Glamorgans*, and *Glamorgan* himselfe signified againe in publicke assembly, that our peace then *was to our owne hearts desire.* But all this being after changed (as you heard) and the King himselfe being reduced to that deplorable condition, as neither his Majestie nor his Lord Lieutenant were able to make good any conditions to be agreed upon in the behalfe of the confederate Catholiques; the committee of the Treaties commission (if any they had) was extinguished; and they (to discharge their owne conscience, and the trust impoſed in them, and withall to avoid the suspicion, which the Kingdome conceived of them) should endeavour by the mediation of the Supreme Councell and committee of Instructions, to have an assembly forthwith called, as the Lord Nuncius earnestly desired in the behalfe of the Clergie and Kingdome. And seing by the words of the Archbishop of *Tuam* the point of Religion, and Church was otherwise concluded and agreed upon betweene the Clergie and the Kings speciall commissioner,

The 9. Answer.

The 10. Answer.

they

they had no commission to treate or conclude any thing to the prejudice thereof with any other. Now, if they will obstinately insist upon it, that the Clergie or spirituall member of the body politicke of this Kingdome could not recall the power or commission granted unto them by the whole body; surely they will not be so perversly obstinate, as to deny, they may recall the commission, for so much of the matter to be treated of, as belonged to themselves, namely the affaires of Religion, Church and Church-livings, Iurisdiction, &c. Yet, I am of opinion, if one of three Marchants, who are partners (*contractu Societatis* or otherwise) recall a procuration, or letter of Atturney made by the three to one Factor, to negotiate their affaires, the revocation is valid and good. More examples and authorities I leave to our Lawyers to be alleaged. Lastly (to come to a period in this particular) you see by the diurnall of the acts of Assembly 19. February above mentioned, the words goe not so, that our councell or committees should expect untill May the conclusion of any peace, and that the Nuncius desired no further time (as they insinuate in their answer) but that the conclusion of the peace betweene the Lord Nuncius, *Glamorgan* and *Committee, could not receive full satisfaction untill May.* By which words alone (if all other reasons were wanting) their objection is blasted. The 12. Answer.

Yet, let us againe suppose a falsehood, that the Clergy did once consent, that the Committee of Treatie should after May conclude a peace with the Marques of *Ormond*; who may doubt, but they might afterward absolutely recall any such consent, and that the committee (being certified of such revocation) could not validly proceede? See the *decretalls lib.* 1. *de Rescriptis Tit.* 3. *cap.* 33. and the glosse thereupon, where a Rescript obtained by a Proctor or Atturney after revocation of his procuratorie is declared invalid by Pope *Gregory* the ninth, which may very fitly be applied aswell to the Revocation of the Marques of *Ormonds* commission, as to the revocation of our committies commission. The 13. Answer.

A fourth observation refuting the allegation of the Councell and Committee, affirming that the neceſsitie and calamitie of the Kingdome, enforced them to conclude this peace.

A three-fold answer.

30. To the objection made concerning the neceſsity of our countrey and want of meanes to prosecute the warre a threefold answer is returned. First, that by conjunction with the Marqueſse of *Ormond* upon such sordid conditions such neceſsity is rather augmented, than any way decreased, as appeareth by what wee have observed above and in the first part of this survey in our observations on the 25. Articles for by that peace (were it accepted) we were tyed to maintayne not onely the Catholicke Confederats army and the Garisons in their Quarters, but also all the armies and Garisons belonging to the pretended Protestants in the foure Provinces of *Ireland*; wee should be at the charge to maintayne the Marqueſse of *Ormond* his followers, the Lord *Digby*, and other pretended Protestants, that throng hether, which would be more burdensome to the kingdome, than the maintenance of an Army in the field; to speake nothing of the danger, whereunto the Catholicke Religion would be driven by entertayning such gueſts, whose imaginations and endevours are wholy employed in sowing sedition, and division among the Confederate catholicks, to the end they might ruine this poore Nation, suppresse religion, and rayse up hereſie, unto whom when the catholickes have done the most charitable offices they may, they must expect no other reward than that which the * ten Leopards gave unto the martyr saint *Ignatius*. We may foresee our future calamitie by such conjunction in the present calamity wherin the distressed Catholicks in their Quarters are. The pretended Protestant party have neither meate, money, amunition, or other provision for warre; How then doe they expect to be relieved, but by the Confederate Catholickes? There were but three hundred pounds in our Treasury at *Kilkenny*, when the Marqueſse of *Ormond* came thither, which were commanded by the late councell to be forthwith given to that handfull

* Quibus cum beneficeris pejores fiunt.

handfull of ſouldiers, that wayted on his Excellency to *Kilkenny* from *Dublin*. There are, at leaſt, fourteene thouſand pounds due on the Marqueſſe of *Ormond* for the maintenance of the proteſtant Army, and Gariſons in his Quarters, as appeareth by the Treaty paſt betweene his Excellency and the commiſſioners ſent unto him by the parliament. Who doubts but that great ſumme would be racked from the confederate Catholickes, if once they joyned with him upon the rejected peace? I paſſe by the 1200. or 1500. pounds given to the Lord *Digby*, &c. adde hereunto upon conjunction (upon a peace ſo diſadvantagious to the catholicke faith) the ſuccours expected from catholicke Princes and Prelats abroad, would be wholy ſubtracted from us, without whoſe ſuccours wee ſhall never be able to ſubſiſt; on the other ſide the proteſtant party expect not a groat from any their allyes at home or abroad.

31. Our ſecond anſwer is, that the loud cry of the people (and that confirmed by the Lord Nuncius his letters above) is, that our late Supreme councell themſelves are the chiefe cauſe of ſuch *weakeneſſe and neceſſity*, aſwell becauſe they continued for the ſpace of three yeares a tedious, chargeable, and needleſſe ceſſation with the Marqueſſe of *Ormond*, by which meanes the Parliamentary rebels in the *North*, *Conaght* and *Mounſter* (who at firſt accepted the ceſſation) had leaſure enough to ſtrengthen themſelves, who having ſufficiently furniſhed themſelves from *England* and other places, rejected the ceſſation, and put in practiſe their hidden treaſon; as alſo becauſe they conſumed vaſt ſummes of mony on the Marques of *Ormond* and other known enemies of Religion without any neceſſitie, which being obſerved by Catholique Princes, and Prelates abroad, gave occaſion unto them to ſubtract the aid and ſuccours, they reſolved to give unto the Confederate Catholiques for the advance of Religion, and conſervation of Monarchie. Our frequent miſſions to *Dublin* were knowne to have corrupted men of integritie, increaſed diviſion, multiplied faction: *Converſi ſunt in arcum pravum.* Beſides the extraordinarie ſummes beſtowed on the Lord Marques of *Ormond*, our late Councell licenced him (yea

were active Instruments for him) to receive all his rents and revenues out of the Confederate Catholiques Quarters; and whereas the confederate Catholiques themselves contributed to the publicke the fourth part of their rents, the Marques of *Ormond* had so great favour with our Councell, as not only himselfe, but many of his friends also contributed no more, but the eight part of such rents, as they had within the confederate Catholiques Quarters. This was not all: they licenced him also to take up in mortage, lone, and otherwise upwards of twentie thousand pounds worth; great yearely rents were given by them unto those very persons, who were knowne to have beene husband-men for his Excellency in sowing division among the confederate Catholiques: those that affected that partie were preferred to places of honour, command and profit; others that affected the publicke, rejected: pamphelets made by the enemies against the justice of our war, entertained and admitted; books made (even by advise and command of Councell and convocation) suppressed, so powerfull were Factionists among our councell and committees. Were the rents due to the Marques of *Ormond* employed with fidelitie for the Catholique cause, well nigh a thousand men might be maintained thereby every day in the yeare; or if the same were charitably dispensed among those Catholique noble men and Gentlemen, whom the Marques burned, wasted, and banished; then had they been provided for with competencie to relieve themselves, and not necessitated to fawne on the Marques for any desperate peace, who otherwise would be glad to fawne on them, and the rest of the confederate Catholiques, being reduced to their necessitie, if his meanes were subtracted from him. Our owne subsidies subministred unto the Marques, have beene the chiefe occasion, why his Excellency hitherto disobeyed his Majesties commands, in not yeelding to such a peace, as he commanded? The sending of suspected Generals (whose Treacherie is now discovered) unto *Ulster* & *Mounster*, where they did little service, and wasted upwards of threescore thousand pounds, did concurre to this *necessitie and weakenesse*, which was augmented by decrying the price of Bullion, procured

cured by privat men for their particular interest, contrary to the act of the first generall assembly, whereby Marchants & others doe now make it a trade to export Bullion out of the kingdome, who before made it a trade to import Bullion into the kingdome. I passe by the lamentable division, which is daily fomented among our selves, and causeth many to be more tenacious of their moneys, and lesse free in their contributions to the advance of the catholicke cause; lesse service is done, and yet our necessity increased; what we gayned by Gods powerfull hand, wee are like to loose by our owne fatall division. In a word, not our enemies forces, but our selves have brought upon us all the *necessity and weakenesse*, the late Councell and Committees have thus complayned of. *Sed tantum confidenter state, & videbitis auxilium Domini super vos* 2. Paral. 20. 17.

32. Our third answer is, that our *necessity or weakenesse* is not so great (for all that) as they seeme to aggravate. First, because we received from catholicke Princes and Prelates abroad in money and money-worth well nigh an hundred thousand pounds. Secondly, we had the assistance of the Excise. Thirdly, of Customes. Fourthly, of the Kings Rents. Fifthly, of the tenths of prizes gotten at sea. Sixtly, the estats of the fugitive Parliamentary Rebels. Seventhly, two thirds of the Church-livings. Eightly, the fourth part of our owne catholicke Confederats rents. Ninthly, severall grand applotments, which amounted to large summes of money. Tenthly, other great summes borrowed by way of lone, &c. Certes these subsidies are farre greater, than those, which our enemies in all the Provinces of *Ireland* have had, and (being well managed) had maintayned yearely in the field a greater army, than ever hath beene maintayned by the late councell & committee, but when great pensions are given to many, who doe but little service to the cause, or who may well serve for nothing being otherwise rich enough, what mervayle is it that the meanes appointed to relieve the souldiers are thus eaten up? Yet are many of those men, who thus heavily complaine of *necessity* (so farre from being really necessitated, as among them) they have made purchases of twenty thousand pounds worth, and many of them who had

not wherewithall to subsist, are now furnished with many thousand. *Trepidaverunt timore, ubi non erat timor.* VVhen we contributed large summes of money to the enemy, wee never complayned of *necessity*; but when we are to contribute to the maintenance of the catholicke cause, then are our complaynts multiplyed. To maintayne heresie against God, and treason against our Soveraigne, the *London* heretickes contributed in one morning welnigh a Million of money, and since that time have contributed many Millions more, and yet never complayned of *necessity*: shall Catholickes to maintayne Religion towards God, and loyaltie towards their Soveraigne, be inferiour to such miscreants? Were our *necessityes* relieved, or our warre diminished, and the Catholicke faith in some sort secured, by the late rejected peace, some colourable excuse these men might have for their complaint of *necessity*. But when by such a peace our *necessities* are rather augmented, & our warre increased, and (which is worse of all) our religion extinguished, what just cause of complaint may they pretend? You will say, having peace with *Ormond* we have lesse enemies to oppose, & the warre is (by so much) diminished. I answer, the catholicke Confederats gaine not somuch tranquility by that peace, as they gayne woe and misery, infamy among Christian Princes on earth and the indignation of God and his Angels in heaven. Seeing they are tyed to maintayne all the heretickes of the kingdome, and all the armies & garisons belonging to their enemies, wheras before they had onely the Catholickes and the armies and garisons in their owne quarters to be maintained, and besides that, by that peace, they loose all the subsidies above mentioned, which hitherto they had to maintayne such armies and garisons, so as they are like to be reduced to the most miserable condition, that ever any Nation hath been reduced unto. Adde hereunto, that in very deed, when we suppose by this peace, that wee have peace, yet wee have no true peace, but the Marquesse is at his owne liberty to breake off, when he finds his best opportunity, seing the peace is invalid and grounded on no Commission, *Et curabant contritionem filiæ populi mei cum ignominia dicentes, pax, pax, & non erat*

pax

Pax. Ierem. 6. 14. See 1. part. art. 15. &c. And p. 2. §. 2. See hereafter numb, 35.

The danger of the kingdome aggravated by the foresaid Councels Letter unto the Nuncius, taken away before they concluded any peace.

83. IN that Letter you have heard the Councell and Committee aggravat vehemently the dangerous state and condition, wherein then (1. Iunij 1646.) the kingdome was; and to avoyde this danger they would needs make *any peace* upon what conditions soever. This was the chiefe pretence they had to make this unhappy peace. Now, marke the just judgement of God discovering the corruption of this pretence; before ever they concluded this peace this dangerous state and condition, wherein the kingdome then stood, was quite taken away by the wonderfull hand of God, insomuch as *Ireland* was never in a better posture or condition than it was, when they concluded this peace. Marke it well, I pray you: the peace was never concluded untill the 29, of Iuly 1646. neyther were they by vertue of any anteriour contract bound then to conclude that contract, as above I have proved, but they remayned still in their full liberty till the foresaid 29. day of Iuly to conclude or not conclude a peace. Before that 29. day of Iuly, namely, the fift day of Iune the glorious victory against the *Scots* in *Vlster* was obtayned by the Confederate Catholickes, under the conduct of the renowned Commander *Eugenius O Neyle*; and by that meanes the dangerous state and condition of that part of the kingdome quite taken away. On the 7. of Iuly (which was 22. dayes before the peace with *Ormond* was concluded) the noble and vigilant Commander *Preston* (after defeating all the power & strength of the *Scots*-horse, which was upwards of 600.) reduced to the obedience of the Confederate Catholickes (for his Majesties use) *Roscoman*, *Abbey* of *Boyle*, &c. and immediatly freed all that Province of *Connaght* (*Slygo* onely excepted) from the infesture of the rebellious *Scot*, and had cleerely chased them out of *Slygo* also, had not this wret-

Infra. §. 2.

See hereafter numb. 35

ched peace given interruption to his fortunat endevours. As the dangerous condition, wherein that Province was likewise taken away before the foresaid 29. of July. On the 13. of July (which was 16. dayes before the foresaid peace was concluded) *Bunratty* was taken in, & the enemies chased out of that part of the Provinge of *Mounster*, so as the greatest danger, which might be there feared, was also taken away.

1. Machab. 2. 47.

Et persecuti sunt filios superbiæ, & prosperatum est opus in manibus eorum. This expedition was done by the army commanded by the Lord Viscount *Muskry*, seconded by the auspicious accesse of the most Illustrious *Iohn Baptist* Archbishop & Prince of *Firmo* Nuncius Apostolicke; by whose largesses the foresaid armies of *Ulster* and *Connaght* were maintayned.

34. Compare these with the Lord Nuncius his answer, (judicious Reader) and judge whether our intrusted councell and committees have proceeded *bona fide*, in concluding this unwarrantable peace, whether they have with that integritie, which is sutable to the qualitie of such noble Catholiques discharged the trust imposed in them by the whole Kingdome in the weightiest affaires, that ever concerned a Nation? After that the God of Hosts had prodigiously rescued *Ireland* from those dangers and calamities, which were imminent; after that those great clouds, which were feared to burst into a terrible storme, had beene in a moment dissipated; after the revocation of the Marques of *Ormonds* commission, and of the commission given unto our committee of treatie; after so many advertisments given unto them by the Nuncius and Clergie not to conclude any peace; after so many exclamations of the Catholique confederates at home and of Christian Princes and Prelats abroad against the oblique proceedings of our intrusted partie; and after the opposition made by the soundest part of the councell and committee, It pleased the rest of them (notwithstanding all this) to conclude (without power or commission) this fatall peace, whereby they have stopped our happy progresse in further victories, and given occasion of the greatest division, that ever yet hath been in *Ireland*. Whereas if they were pleased to abstaine from concluding this fantasticall

Politicall peace with our Enemie in the part of the kingdome, we had, ere now, had a true peace with all our Enemie in all parts of the kingdome: for indeed (by Gods blessing) we had either chased them out of the kingdome, or we had forced them to such conditions, as would secure Religion, King and Country. So as in very deed, the making of this peace hath made a warre and no peace, increated our dangers necessities, weakenesse and calamities, but tooke none away. *Decepérunt populum meum dicentes, pax & non est pax.* Ezech 13 10.

34. Its remarkable how in their forestaid answer they aggravate only the *present state & condition of the kingdome, in the temporalitie*, as if they weighed not the *state and condition of the kingdom in the spirituallitie*, which was the point the Nuncius urged, and the whole kingdome in their severall declarations resolved to rectifie. They affirme, that *obedience due to his Majestie enforced them to any peace.* With what Divines did they consult, to informe them, how farre the subjects obedience to his Prince did extend? I am not knowne, the Divines that are in the same councell with them, were against them? can not wee render due obedience to our King without disobeying our God? they ought to remember that lesson of the Apostles *Oportet obedire Deo magis quam homini bus.* How shall we give to God what is due to God, if we give all to Cesar, and leave nothing for God? But this was a worke of supererogation of theirs; the Kings Majestie looked for no such blind obedience from them. He gave them the repeale of the penall lawes; they rejected them; he gave them by publicke contract their Churches, Church-livings, jurisdiction, and free exercise of Religion; they contemned them. Yet, if they would needs appeare such obedient subjects; why did they disobey the Kings letter of the eleventh of June, commanding no peace should be made with them. If with it appeare not, their obedience was to the subject, and disobedience to the Prince. The Lord Nuncius in his Letters exhorteth them to fidelitie to their Prince, and yet dissuadeth them to make any peace with the Marques, protesting that all the damage, that should befall the King and this kingdome by concluding that unjust peace should be imputed to them, as to men, who

Ezech. 13. 10.

Act. 4. 8. 5.

abuse

abuse their private affection, and incre to the destruction of the Common-wealth. So as in the Lord Nuncius his opinion (by whom our councell and committee should be directed (if they stood to the principles of Catholique doctrine, and their owne covenant with him) its disobedience to the King to obey *Ormond*, and to disobey him is obedience to the King.

Infra: §. 19.

35. But the councell and committee in their foresaid letter to the Nuncius say they *will ratify Glamorgans peace*, and yet they blush not to tell the Nuncius, that they will not *publish it. Va duplici corde:* they contracted with *Ormond* to publish his peace without *Glamorgans*: and contracted the contrary with the Lord Nuncius. A man of quality writes thus concerning renowned *Prestons* expedition in Connaught: *after Roscomon was yeeded, wee were constrained to loiter for fifteen dayes without moneyes to pursue our victories, the enemie at Sligo being frighted, sent away all their goods, and happy was he, that could get into the North. Severall letters were in the meane time written to our campe, that the Councell detained our moneyes by devices fearing our victories should increase, and thereby their peace with Ormond should vanish. But wee getting one weeks meanes marched to Boyle, and in our March cleered that wentie miles together with Drumrush, and Cauboe, and within three dayes tooke in Boyle and Castle-Conor in the Countie of Sligo, and notwithstanding all our Messengers to the Councell not one penny did they send us: which if they had in time, besides cleering of Connaught, wee had advanced to the North to the Lagan (whose strongest and best men were defeated formerly at Roscomon) where with great terror wee were expected with little or no resistance. They, on the report of our coming to the County of Sligo broake downe their fortifications at Ballaboseagh on the foord of Fin. So as the want of meanes made us stay at the Boyle from the 25. of July untill the 24. of August, &c. whereas* (were we supplyed) *we had lodg'd this winter in the North in despit of them or any their adherents.*

Here, because I shall never be able to aggravate this matter with such Energie, as it requires, I leave the same to the judicious Readers censure & aggravation, as also what other observations might be made upon the foresaid letter written by the Councell to the Lord Nuncius.

§. 16.

§. 16. *The invalidity of the foresaid rejected peace, proved out of our Committee of treaties exceeding their Commission.*

16. IF *he that hath a commission or command* (saith the Law) *to doe any thing, shall exceede his commission, he doth nothing, that is valid or firme. If he passe beyond the bounds of his Commission, he seemeth to doe another thing*, and not the thing, for which he had a commission. *And this hath place not onely when he doth contrarie to the prescript forme of his commission, but also when he doth besides, or beyond his commission*, saith the glosse in 6. *si cui de electionibus in 6. & c. prudentiam de offic. Iud. deleg.* To prove that our Committee of the Treatie in concluding this peace, did proceede not onely *besides and beyond*, but also *contrary to their commission* may seeme a hard taske, seeing they pretend to have from the Kingdome an absolute and an unlimited commission. As the Marques of *Ormond* would treat with no other commissioners, but with those whome he himselfe did seeme to cull out of the foresaid thirteene persons, so would he not daine to treate with any, unlesse they had absolute power given them by the kingdome, not onely to *treate* of, but also to *conclude a peace*, and not onely *to conclude a peace; but to conclude a peace, as they thought fit*. This Commission (*to conclude a peace, as they thought fit*) is not from the Assembly, but from the Councell; and therefore are not capable to oblige the kingdom: for if the Councell did exceed their commission, in giving that power, which they had not, unto the committee of treaty; the kingdome is not liable to any thing they have done beyond the commission or authority they gave them. Yet have the Councell themselves limitted this power (*to conclude a peace, as they should thinke fit*) given to the Committee to these bounds (*and most available for the said Catholickes, and generall good of this Realme.*)

V. Etiam Panormitanum c. ult. de restitut. spoliat. & Azor. 3. p. mor. Inst.

17. Wherefore (that we may now come *ad raditem* (we aske (and in this our interrogation we assume as Iudges all indifferent Catholickes breathing) whether it was *most available for the Catholickes and generall good of this Realme*, that the Catholickes should still remayne under the yoke of the penall

hall lawes, and all the calamities that thereupon follow, (whereof in our first part pag. 6.) as by this peace our Committee of Treaty (without any necessity) hath left us; or whether they should be freed from that yoke? whether it conduced more to the *generall good of this Realme*, to have a *present suspension of Poynings acts*, whereof we have disputed so amply in our foreiaid first part, or to let the same remayne in full force against us? Whether to have our Churches and Church livings, free exercise of our Religion, exemption from the Iurisdiction of Protestants Clergy, as his Majesty by his speciall Commissioner hath granted us; or to want our Churches and church-livings, free exercise, &c. as our Committee hath concluded. Much more you may reade in our first part §. 14. numb. 26. 27. where I have layd downe aswell their *wilfull omissions* in procuring those things, which was given them in commission to procure, as also their *disdainefull reiection* of those things, which his Majesty granted us, and which were *most available for the Catholickes and generall good of this Realme*. Whether it was more *available for the Catholickes, &c. to preserve* in the hands of the Confederate Catholickes, Excises, Customes, and other subsidies to maintayne alone the armies and garisons under the Confederate Catholicks command, or to give away from the Confederate Catholickes all the said subsidies, & yet to charge them with the maintenance not onely of their owne armies and garisons, but also with the maintenance of the enemies armies and garisons as our Committee of Treaty have done? Whether it was more *available for the Catholickes, &c.* to preserve their armies under their owne command, and their garisons under their owne government, at least untill all things were secured unto them; or to deliver the same over unto the enemy before any security was had for our Religion, lives, liberties, and estates, as the Committee have done. Were that peace accepted? More to the same purpose may be collected by the judicious reader out of our observations in the first part.

28. And though their commission were generall and not limitted, as you have heard, yet could they never by any po-

wer

wer given them make any contract or peace to the prejudice of faith or common-wealth, which could be valid in law; because, as all contracts made by a Tutor or Curator to the prejudice of the pupill, are (by the law) altogether invalid, and voyde; So all contracts or any peace made by any Committee to the prejudice of faith and common-wealth are altogether invalid and voyde. See the Canons established aswell for the defence of Ecclesiasticall immunities, as also against the alienation of things Ecclesiasticall. And if this be true, even then when they are appointed Committees or Agents for the Church; how much more is it true, in case the same Church did positively recall all Commissions given to such Committees or Agents, as the Clergy of *Ireland* hath done in this present peace? How generall soever a Commission may be, yet this exception is alwayes involved therein, that nothing, that is *unlawfull* may be done by vertue thereof: *mandatum si generale sit, solum prohibet, quæ licita non sunt*; which the law exemplyfieth by this case, if a Commission be given *to elect any one*, in generall tearmes, to any dignity, office, or benefice; it is to be *understood*, that *a fit one be chosen*: *Vnde mandatum de aliquo eligendo, intelligitur de eligendo idoneo.* What could be done more unlawfull in the execution of any Commission, than what hath beene done by our Committee of Treaty in the execution of their commission; they rejected the graces our Soveraigne granted unto us for gayning whereof they had a Commission; and engaged the kingdome in matters of high concernment, for which they had no commission. Can that peace be a good peace, wherein there is no securitie for our Religion, lives, liberties, or estates?

Cap. fin. per quibusd. de verb. signif.

Cap. cum fam quæ relati.

The limitation of our Committee of treaties Commission provided out of the Modell of government, *by which* Magna Charta *is to be maintayned. and the Church livings granted to the Catholicke Clergy.*

39. In the very first Article of the *Modell of Government* I reade thus. In primis, *That the Roman Catholicke Church in Ire-*

land *shall have and enioy its priviledges and immunities according to the* GREAT CHARTER *enacted and declared within the Realme of* England, *in the ninth yeare of the raigne of King* Henry *the* second, *sometimes King of* England *and Lord of* Ireland, *and afterward enacted and confirmed in* Ireland; *and that the common-law of* England, *and all the statutes in force in this kingdome, which are against the catholicke Roman Religion, and liberties of the Natives* (Marke the resolution to procure the repeale of the penall lawes, &c) *and other subiects of this kingdom, shalbe observed, &c. That every branch of* MAGNA CHARTA, *& all other statutes confirming, expounding, or declaring the same, shalbe punctually observed. Know yee* (saith the King in that Charter) *That we in the Honour of Almighty* GOD, *& the* SALVATION *of the* SOVLES *of our Progenitors and Successors Kings of* England, *to the* ADVANCEMENT *of* HOLY-CHVRCH, *and the amendment of our Realme, of our meere and free-will, have given and granted unto the Archbishps, Abbots, Pryors, &c. That the Churches of* England *shall be free, and shall have all her whole rights, and liberties inviolable, Reserving to all Archbishops, Abbots, Pryors, Templers, Hospitlers, Earles, Barons, and all persons, aswell Spirituall as Temporall, all their free liberties and free customes, which they had in times past, and all these customes and liberties aforesaid, which we have granted to be holden within this our Realme, asmuch as pertayneth to us, and our heires, we shall observe. And all men of this our Realme, aswell Spirituall, as Temporall* (asmuch as in them is) *shall observe the same against all persons in likewise.* This *great Charter* (which contayneth the immunities of the Church and liberties of the Subiect) hath beene confirmed by thirty Parliaments in the succession of 18. Kings. *Edward the third* in the 14. yeare of his raigne augmented the same by the addition of five speciall priviledges granted the Church and Clergy; and in the 25. yeare of his raigne added a surplus of nine priviledges more. And this is it, which the Earle of *Glamorgan* hath in part granted unto us, and which our Kings of *England* have sworne to maintayne unto us. *Henry* the 8. indeed deprived us of the benefit thereof. I wish our owne bosome friends at home had not too neerely imitated him. In all the articles of peace there is not somuch as once mention made of this *GREAT*

CHARTER.

CHARTER, though it be the first and prime article the kingdome resolved to insist upon.

40. In the six and twentieth Article of the same *Modell of Government.* It is ordered, and established, that "the possessions of the Protestant Archbishops or Bishops; "Deanes, Dignitaries, and Pastors in the right of their "respective Churches, or their Tenants, in the beginning "of these troubles, shall be deemed taken, & construed as the "possessions of the Catholicke Archbishops, Deanes, Dignita- "ries, Pastors, and their Tenants respectively, to all intents & "purposes; and that those possessions are intended within the "precedent order for setlement of possessions. And this pu- "blicke order of the kingdome (you see) is conformable to MAGNA CHARTA (for somuch) and agreable to the publick Declarations of the kingdome and other acts of Assembly.

The like limitation of the same Commission is expressed in both our declarations made anno 1642.

41. In our Declaration printed in France, 1642. we declared it to be *a meanes to reduce Ireland to peace and quietnes*, (among other things) that *by act of Parliament it be declared that the Parliament* of *Ireland* hath no subordination to the Parliament of England; that *Poynings act & the penall lawes be repealed. That all Markes of nationall distinction betweene English and Irish be taken away by act of Parliament. That the Bishopricks, Deaneries, and all other spirituall promotions of this Kingdome, and all Frieries and Nunneries may be restored to the Catholique owners, and that Impropriations of tithes may be likewise restored and that the scitty, ambits and precincts of the Religious houses of the Monks may be restored to the, but as to the residue of their temporall possessions it is not desired to be taken from the present proprietareis, but to be left to their, untill that God shall otherwise encline their owne hearts. That all Plantations made since a. 1610 may be avoyded by Parliament, if the Parliament should hold this act iust, and their possessions restored to those or their heires, from whom the same was taken, they nevertheleſſe answering to the Crowne the rents and services proportionably reserved upon the undertakers.*

42. In our Remonſtrance delivered to His Majeſties Commiſſioners at the towne of *Trim* 17. *March.* 1642. (among many other grievances) we deſired redreſſe againſt the penall lawes of 2. *Eliz.* impoſing incapacities on the Catholiques in places of truſt, honour, or profit both in Church and Commonwealth; againſt *falſe inquiſitions* taken *upon feigned titles of the* Catholiques *eſtates againſt many hundred yeares poſſeſſion*; againſt *the two impeached Iudges*, who illegally *avoided* 150. *letters patents in one morning*; for ſecuring the ſubjects lives, liberties and eſtates; for *exempting the Parliament of Ireland*; from *any dependency on the Parliamrnt of England*; and for the *power and authoritie* of the ſame *Parliament* of *Ireland*; againſt the diſmembred *Parliament of Dublin*; againſt the *Continuance of poynings act*, *the lawes and incapacitie to ſit in the next Parliament.* While our Commiſſioners (the Lord Viſcount *Gormanſton*, *Sir Luke Dillon*, *Sir Robert Talbot*, and *Iohn VValſh Eſquire*) preſented this Remonſtrance to his Majeſties commiſſioners at *Trim* 17. *March* 1642. with hopes of redreſſe for our grievances, and a happy accommodation, the Marques of *Ormond* (taking advantage of the time and occaſion) marched out of *Dublin* with his forces, tooke in *Timolin*, and attempted *Roſſe*, where he loſt his ſhipping, was fruſtrated of his expeditiou, and his army ſo infeebled, as he was not able to make any conſiderable Excurſions in halfe a yeare after, wherein God ſhewed his indignation againſt perfidie, and remunerated the innocencie and integritie of the confederate Catholiques by giving into their poſſeſſion thirty or fourty of the enemies garriſons; within few monethes after, in ſo much as the Marques of *Ormond* was glad to make a ſpeedy ceſſation with them, otherwiſe they had gone to the very gates of *Dublin*, there being no conſiderable reſiſtance againſt them.

43. The limitation of their commiſſion according to the 17. propoſitions propounded unto his Majeſtie in *Aprill* 1644. and the 14. additionall propoſitions thereunto annexed, whereunto the 30. Articles of the late rejected peace are anſwerable, is ſufficiently explicated in the firſt part, particularly §. 14. *Numb.* 26. whereunto we referre the Reader.

The limitation of the foresaid Commission by severall Acts of Assembly.

44. *Quarto Iunij* 1645. *It is ordered* (saith the kingdome then in publicke Assembly) *upon the question* (*nemine contradicente*) *that the Committee of Instructions shall draw an act, that as to the Catholiques of Ireland whether Clergie or Laity, all penalties, pressures, incapacities prejudice and inconvenience laid on the professors of the Roman Catholique Religion by the statute of 2. Elizabeth, or any other Act or Law in force in this Kingdome should be taken away and repealed.* This act was concluded and agreed upon after mature deliberation and serious debate had of this matter by the committees of Instructions, whose opinion the Chaire-man reported unto the house at two severall sessions, to wit, the second and fourth of Iune 1645. It was likewise *unanimously ordered* by the said *Assembly* 9. *Iunij* 1645. *That as to the demand made by the Lord Marques of Ormond Lord Lieutenant of Ireland to the commissioners of the Treaty of peace for the restoring of the Churches to the Protestant clergie, the commissioners shall give an absolute denyall, & the committee of Instructions are to prepare an Instruction to that effect.* 11. *Iunij* 1645. the article concerning Ecclesiasticall and spirituall Iurisdiction (saith my diurnall) received in publicke Assembly a long and learned debate concerning the severall statuts of *premunire* and provision, and concerning excommunications fulminated by Protestant Prelats against Catholiques, whereby they were perpetually forced to repaire to the Protestants Tribunall, to obtaine absolutions from them, or else to be imprisoned by a writ *de Excommunicato capiendo*; also concerning the maine difference betweene our Religion and protestancie, in dispensing with mariage within degrees &c. much more appertaining to the Ecclesiasticall Iurisdiction was then debated, and at length generally referred that day unto the comissioners with instructions from the committee of Instructions. The Marques of *Ormond* in his abridgement of concessions reade in assembly 14 *Augusti* propounded three manner of remedies for that grievance; none pleased the assemby; because the

cure

cure was worse than the discease; *tandem* 28. *Augusti* 1645. it was unanimously agreed upon by the Lords Spirituall and Temporall in tull Assembly (*nullo discrepante*) that the Catholique confederates of *Ireland* should never submit or be subordinate to the Protestant Clergie, or to any their jurisdiction. See also for this the councells letter, numb. 51.

45. What dispensation our committee of the Treatie had to conclude a peace without procuring a repeale of the penall lawes, assurances for our Churches, and exemption from the Protestant Clergies Iurisdiction, we have not read or heard of. So great were the pressures suffered by the Catholiques in *Ireland* by the Exorbitant power of the Protestant Prelates, as many of our Cathliques breathed their last in miserable captivitie, others were forced to keepe their owne dwelling houses, as if they were in restraint, to shun the greedy Parators and hapshares; whereof some (namely Alderman *Doud* and Alderman *Goodwing*, *Mr. Thomas Long*, *Mr. Iames VValsh*, *Mr. Robert Hacket*, and others) continued in such restraint for the spice of seaven yeares or thereabouts. Alderman *Francis Tayler* was prisoner in the Castle of *Dublin* 18. whole yeares, if my memorie faile me not; and Alderman *Patricke Browne* after so many yeares also imprisonment in the Castle dyed in the prison. But hereof much more might be said, which I am forced to omit. Shall we; shall we, wilfully fall againe into the same servitude, and incurre the *malediction of Chanaan*, to be *servi servorum fratribus nostris*.

N. one of the two so dyed.

Genes. 9.

The learned debate in the assembly and convocation house touching this question, whether the confederate Catholiques be bound in conscience by vertue of the oath of Association, or other tye, to make an expresse article with the Protestant partie for keeping in our hands such Churches, Abbeyes, &c. now in our possession?

46 For the negative part *it was suggested that if any such article be made his Maiesty will breake off and consent to no peace betweene us and the above specified party, to the great danger of the estates, lives and liberties of all our party. And it was further urged that in not demanding such an article as above, his Maiesty will grant*

us

his toleration of Religion. For the affirmative part it was likewise suggested, that without an expresse article *Gods patrimony* was not secured; that however men might be prodigall in the dispensation of their owne goods, yet without danger of Gods indignation, they ought not to be prodigall in the dispensation of Gods goods; that this his Majesties Kingdome of *Ireland* had beene more securely preserved for him and his Royall issue by preserving the Churches in the Catholiques hands, than in suffering the seeming Protestants to professe the same, who indeed have as great an antipathy against the Protestant doctrine established in *England*, as they have against the Catholique doctrine; and therefore might be justly feared to sojourne in such places, where the Churches & Church-livings are, as Intelligentiers for the Parliament.

47. For these reasons and many more, the house of Convocation wholly inclined to the affirmative part. The integrity of the whole Kingdome (in this particular) appeares by their act of assembly of the 9. of Iune one thousand six hundred fourty and five above mentioned. They debated indeed learnedly for a long time, how they might observe that Divine lecture of CHRIST IESUS: *Give unto Cesar what is due unto Cesar, and unto God what is due unto God.* Some feared, if the Catholicke Confederats had demanded an expresse article for their Churches, they had not *Given to Cesar what was due unto Cesar*, and therefore thought a negative act, that is to say, an act of our owne assembly denying to give unto the Lord Lieutenant our Churches, might serve the turne; others thought, they had *not given unto God what was due unto God*; If the kingdome had concluded a peace without an expresse article for conservation of their Churches. God, the Supreme moderator, decided the pious controversie, and gave sentence (as it may seeme) for the resolution of the Clergy, when by the articles of the peace concluded upon betweene the Earle of *Glamorgan* and the Confederate Catholickes, his Majesty was pleased to grant unto the Clergy, what they demanded herein.

48. How our late Councell and Committees may be ex-

cused;

cuſed, at leaſt, of negligence in not providing for the conſervation of our Churches when they ſaw *Glamorgans* peace revoked, I doe well know. By the fourth article of the rejected peace they provided carefully for ſecuring ſecular mens lands by the *vacating of all Indictments, Attayndors, Outlawries, &c. and all Proceſſes and other proceedings thereupon; and of all Letters-patents Grants, Leaſes Cuſtodiums, Inquiſitions &c. that were taken on ſecular mens Lands*; nothing ſecured for the ſpiritualty; The Arke is expoſed to the depredation of the *Philiſtines*, Gods houſe to the profanation of heretickes; Chriſts patrimony to the invaſion of *vultures*. Nay, in lieu of procuring any act to ſecure us our Churches or church-livings, by the ſecond branch of the firſt article and by the ſecond article of the rejected peace they rejected all former graces granted unto us, that might any way ſecure us of our Churches &c. as you may reade in the firſt part and firſt article. Whether it was a greater ſacriledge in *Henry* the 8. to take away by force our Churches and church-livings, or in us to give them back freely without compulſion to be polluted by heretickes, we leave to the cenſure of the judicious reader: This much we adde to aggravate the offence, that wee ſeeme to concurre with the ſacriledge hetherto committed by ſuch as injuſtly poſſeſſed Chriſt, patrimony, and doe approve their uſurpation by making reſtitution; the Title, which hetherto in them was invalid, we render valid. *Chryſoſtome, Ambroſe, Stanislaus, Liberius, Hoſius, Athanaſius, Hilarius*, and other Orthodoxe Champions of holy Church, denyed to yeeld, even unto *Ceſars*, ſo much as the poſſeſſion of one only conſecrated church to be profaned by heretickes; and ſhall poſterity record that the renowned Confederate Catholickes of *Ireland*, without cauſe or neceſſity, yeelded unto any hereticke ſubject, what their *Ceſar* granted them. To ſecure the Proteſtants againſt the Parliamentaries, *Ormond* was carefull to article with their Commiſſioners; becauſe he was ſure the Parliamentaries would turne the proteſtants out of their poſſeſſions, as ſoone as ever they concluded upon the treaty: but with the Commiſſioners for the Confederate catholickes in concluding the rejected peace, he ſcorned to article any thing for the Proteſtants

heftants ſecurity, or poſſeſſions, becauſe he was ſure of them, ſeeing there was no act or article of the peace eyther to debarre them from entring into poſſeſſion, or to preſerve us in our poſſeſſions.

§. 17. The Committee of Treaty exceeded their Commiſsion by obliging the Kingdome upon the Marques his peace to ſend into England 10000. men.

49. VPon what conditions the Confederate Catholiques offered at firſt to His Majeſtie ten thouſand men to ſuccour him in *England*, it appeareth out of our Remonſtrance preſented to his Majeſtie in *April* 1642. whereof *numb.* 42. how afterward we actually reſolved to ſend them over, and upon what conditions, it appeareth by *Glamorgans* articles. But that ever the Kingdome agreed to ſend over 10000. men upon the bare conditions of *Ormonds* peace, as I never heard or read it; ſo doe not I meane ever to believe it. It is written on the backſide of the rough draught of the Articles of peace delivered by *Mr. Plunket* and *Mr. Darcy* to the congregation, that the *ill affected of the Councell would never conſent to the articles, but that they ſaw the impoſsibility of performance by the day of our part, by the time limitted* 28. *March*, 1646. Marke, I beſeech you, how firſt without any Commiſsion they engage the confederate Catholiques in a thing impoſsible, *v g.* to ſend over 10000. men by the 28. day of March (which was the very day they entred into the engagement) or by the laſt day of March (for ſo I underſtood from one of the Committee, wherein I referre my ſelfe to the defeaſance perfected to that purpoſe.) To performe ſuch an obligation by either of thoſe dayes is knowne to be impoſsible; after, to cancell this obligation or engagement, they force their fellowes of the Councell and Committees to conſent, unto thoſe unfortunate articles of peace: So as to eſcape the unjuſt obligation to ſend over ten thouſand men, we contracted a more unjuſt obligation to aſſent to an unjuſt peace.

50 But what if *Glamorgan* would ſet upon us, and demand of us to ſend over the ten thouſand men, according the

contract past with him, and present us as good assurance for the performance of his contract with us, as *Ormond* can doe for his, what will *Ormonds* dispensation given us not to send them over avayle us? Sure I am the catholicke confederates were ready enough on their part, and (as I have beene informed) the Marquesse his owne Commissioners from *Dublin* tooke a view of the muster of sixe thousand of them (for so many were to be first sent over.) but the Marquesse had not provided any shipping to carry them away. Wee were tyed to bring them no further than to the Sea-ports; and every man knowes the Marquesse provided not the least vessell to bring them away: neither had he so much as a chiefe commander to conduct them over; So as, whereas our committee would needs purchase a dispensation at so deere a rate, as the condescending to so unjust a peace, they ought rather to stand upon their justification, and to shew, the confederate Catholiques performed their part, but that his Excellency performed not his part, in providing shipping. But, alas, it is knowne, these projects have beene invented to cast of Noble *Glamorgan*, as heretofore they cast of Noble *Antrim*, both whose powers, if wee made use of, as wee ought, wee might have spared many frivolous and chargeable journeyes to *Dublin*.

§. 18. *An abstract of the letter sent by the Supreme Councell in October 1645. upon Mr Spinola's arivall unto the Lord Nuncius, then being in France, wherein the state of the Kingdome is set forth, and a promise made to conclude what peace the Nuncius should thinke fit.*

51. *MOst illustrious and most Reverend Lord, in the last generall Assembly of the confederate Catholiques, aswell the Ecclesiasticks as the Seculars by unanimous consent did determinatly agree upon certaine postulations, conditions, and upon the meanes to obtaine them, which if they may be obtained, the honour, utilitie, and splendour of the Catholique Religion, and of the Professors thereof in Ireland shall bee excellent well provided for &c. and unlesse these*

postulations

postulations and conditions be obtained, and the promisses thereupon made, fulfilled, and by a free act of Parliament confirmed &c. necessarily the warre must be continued.

52. *The treatie of peace upon the foresaid postulations and conditions long since instituted is continued, they dispute for the least thing; in no part thereof is it yet concluded, neither is it knowne when any conclusion shal be. Certes if peace were concluded, nothing else thence followeth, than repose, and as it were, a certaine cessation, untill it receive full perfection and accomplishment by parliament: and when this Parliament shalbe, yea, whether it shall ever be, seeing it dependson very many accidents, its altogether uncertaine, and when the Parliament shalbe assembled we have recourse to armes, if any dissention arise: meane while the government of their owne Quarters, & hetherto, and of their Churches, of their Emoluments, and of the possessions of all their things doth remaine in the hands of the confederate Catholiques.*

Note the uncertainty when the Parliamẽt inall be.

53. Out of which, and out of many more reasons, which in the same Epittle the councell doth alleage; they prove the necessitie of the Nuncius his presence in *Ireland*, and to that end doe not onely invite, but also urge and presse him, as well by this and other letters, as also by speciall messengers sent into France, to come into *Ireland*, assuring him further, that the *Ecclesiasticall Iurisdiction in the conditions of peace demanded, and derived from His Holinesse, is and shall be in the hands of the Catholiques independent of the Protestants; to the promotion, propagation and secure preservation whereof the presence of the Nuncius Apostolicke is necessarily required, &c.* having promised unto him a place of Residence, where the supreme government of the kingdome should be, together with a guard to wait on his person, they shew the constancie of the Catholiques of *Ireland* in their Religion, & their Christian fortitude in attempting this holy warre, even without armes, ammunition, or other provision, against the enemies of Religion, King and Countrey, and unto the *difficulties propounded by the most noble Spinola, concerning the oath of supremacie, the admission of Catholique Bishops to the next Parliament, and the government whither the same should remaine in the hands of the Protestant Vice Roy; they answer, that the Irish Nation by no meanes, dangers, or hazard of*

Ecclesiasticall jurisdiction on the hands of the Catholique Clergie.

Of the Supremacy, &c.

life and fortunes for these hundred yeares past, could ever be induced to acknowledge the temporall Prince to be Supreme head of the Church, or to submit themselves to such an Oath, much lesse doe they meane hereafter to submit themselves thereunto, and that in the last assembly by universall voice and vote it was concluded, that they would perpetually * insist upō the taking away of the same oath; that they believed the pseudo Bishops would not dare appeare in the next Parliament & that they had great hopes and grounds to exclude them from thence, and though they were present, yet may not they prejudice our affaires, seeing it is extant in our conditions that they are to have no Iurisdiction in causes appertaining to the Catholique Religion and the professors thereof, &c.

*this is not take away

54. Vnto the third difficultie, concerning the government of the Kingdome by a Protestant Vice-Roy, they answer, that neither the whole government, nor the government of all the forts or cities shall be in the hands of the Vice-Roy: there shall be catholiques in the councell of state, and they shall be governours of many cities: the Ecclesiasticall hierarchie shall be the catholique clergie; out of all these there shall be a body politicke composed of catholiques, &c. the chiefe member of which body shall be the Nuncius of the See Apostolique, who shall make choice of the most secure citie wherein he may keepe his residence, and that body politicke of catholiques shall defend his dignitie and securitie with the hazard of life and fortunes; so we in the name of all the confederate catholiques (ex nunc & tunc) doe promise; and therein oblige the publicke faith of the whole Kingdome. And this meane, and this remedy is sufficient, &c. to secure the Apostolicke Nuncius (being in this Kingdome) from any disgrace or danger. Adde hereunto, presently upon the arivall of the most illustrious and most Reverend Nuncius, having considered the conveniences and inconveniences of our state and affaire. VVE VVILL DOE VVHATSOEVER HE SHALL THINKE expedient.

Note the obligation

Observations on the foresaid Letter or obligation.

55. The Reader is first prudently to observe that the postulations mentioned number 51. are the seaventeene propositions and the 14. additionall propositions, whereof wee have made frequent mention in the first part, those acts of assembly

ſembly and other orders above mentioned. *VVhich unleſſe they were obtained and by Parliament confirmed, the warre was ſtill to be continued.* Our committee have concluded the rejected peace, and the ſame councell, that made this promiſe in the name of the Kingdome (two onely excepted) hath confirmed the ſame; and yet the conditions or poſtulations above mentioned, nor the tenth part of them have been by our committee of treaty *obtained*, as the Reader may cleerely behold in our obſervations on the articles of peace part. 1. 2. The councell numb. 52. doe acknowledge, they know not when the Parliament will be, and doe informe the Nuncius, that untill the Parliament be, the government and juriſdiction, Churches poſſeſſions, &c. muſt ſtill remaine in their owne hands; and yet by the articles of the peace they are taken frō us before, & not the leaſt appearance of ſecuritie for our Churches or church-livings, much leſſe of exemption from the Iuriſdiction of the Proteſtans clergie. It is true, that when this obligation was made, *Glamorgans* peace was in force, by which our Churches and Church-livings, Iuriſdiction and exemption from the power of the Proteſtant clergie was in ſome ſort ſecured unto us; but that peace being recall'd by his Majeſtie before *Ormonds* peace was concluded; and the condition on our part (upon which that peace was grounded) being not performed, it was a notable breach of publicke faith, in our councell inexcuſable, ever to approve or condeſcend to the Marques of *Ormonds* peace: and the matter is ſo much the more to be aggravated, that the councell themſelves did ſeeme to wave the benefit of *Glamorgans* peace upon the Proteſtation made againſt it by the Marques of *Ormond* 3. By our obſervations on the firſt article in our firſt part it appeareth that neither Eccleſiaſticall nor Secular is exempted from the Oath of Supremacie; ſo as in this particular alſo, whereof numb. 53) publicke faith is broken with the Nuncius. Touching the Proteſtant Biſhops ſitting in Parliament, and the continuation of a Proteſtant Vice-Roy ſee our obſervations on the 10. 12. and 14. article part 1. 4. Nothing that is promiſed numb 54. is performed, or true; and if the rejected peace were accepted, the body politicke of the confederate Catholiques

liques had beene dissolved, the Nuncius forced with disgrace to fly the countrey, and no confederate catholique secured of his Religion, life, libertie or estate. 5. By the last particle our councell obliged the Kingdome upon the arrivall of the Lord Nuncius not to rely upon the Earle of *Glamorgans* owne peace, if the Lord Nuncius thought any other peace more *expedient*, which is the matter, which he so earnestly urgeth in his letters above mentioned. And herein we charge the councell and committees with notable breach, who contrarie to their promise and vow, and contrarie to the severall protestations and inhibitions of the said Lord Nuncius concluded a peace, which he *thought* not *expedient* and whereunto he would never yeeld consent. See our observations on the 14. article numb. 26. 27.

§. 19. A publicke Contract made by the kingdome with the Lord Nuncius not to conclude any peace untill he and *Glamorgan* concluded on a peace for the Spiritualtie, &c.

56. *Articles agreed upon betwixt the most Illustrious and most Reverend Lord* John Baptist, *Lord archbishop and Prince of* Firmo, *extraordinary apostolicke* Nuncio *to the Confederate Catholickes of* Ireland; *and the Nobility, imployed by the said Confederate Catholickes together with the Earle of* Glamorgan *to the said Illustrious Nuncius at Kilkenny the* 19 *of February* 1645.

Inprimis a Cessation shalbe continued till the first of May by which time or sooner if the most Illustrious Lord Nuncius doe not bring the Originall agreements under hand and Seale betwixt his Holynesse and the Queene of great Britaine, the said most Illustrious Lord Nuncius shall ratifie whatsoever shall seeme meete to him on the behalfe of his Holynesse, and the Earle of Glamorgan *in the behalfe of the King of* England, *that an honourable and wished peace be not any longer deferred.*

57. *Secondly, In the meane time if the Confederate Catholickes doe send from hence to treate with the* Vice-roy *about politicall affaires and differences, it is declared that no prejudice shall be inferred by that treaty to this Treaty, that is to be betwixt the most illustrious*

rious and moſt Reverend Lord Nuncius and the Earle of Glamorgan, *that untill there be a concluſion and publication of it, the other alſo may not be concluded or publiſhed. And that there be no change in the interim of the Politicall or Civill government, ſo that both may be at once and together concluded and publiſhed by the approbation of the generall aſſembly if it ſhall be ſeene neceſſary to the ſaid Lord* Nuncio, *and Earle of* Glamorgan *to call it.*

Thomas Tyrell	*Thomas Cashell*	*Lucas Dillon*
Emerus Clogherenſis	*Caſtle-haven Audly*	*Terlagh O Neyle*
Nich. Plunket	*Net terville*	*George Comin*
Gerald Fenell	*Muskry*	
Richard Bellings	*Thomas Preſton*	
Patricke Darcy	*Daniell O Brien*	

58. Here we are to note. Firſt, the circumſtance of time, to wit, the 19. of February, which was when the aſſembly of the kingdome was fully gathered together. Within 12. dayes after, namely the ſecond of March, an order was conceived by the ſame aſſembly to *Treate* with the Marqueſſe of *Ormond*, and to *prepare* things *for a peace* with his Excellency, but not one word authorizing the Committee to *conclude a peace*; for that had been a manifeſt violation of this contract made with the *Nuncius*: nay, by this very act of aſſembly and ſolemne contract (whereunto the whole kingdome condeſcended) if before then eyther Conncell or Committees had any power communicated unto them by any former act of aſſembly (which I could never yet reade) it was now ſufficiently recalled. Secondly, we are to note the perſons, that ſubſcribed to the contract in the behalfe of the Confederate Catholickes, are the perſons chiefly intruſted by the kingdome, *M. Tyrell* chayreman of the Committee of Inſtructions, the Lord Viſcount *Muskry* and *M. Darcy* are two of the five that ſubſcribed to the peace contrary to their owne contract here agreed upon, the reſt were then of the Supreme Councell or Committee, whereof moſt of them being of the following Supreme Councell or Committee of Inſtructions, approved alſo the peace contrary to this their own con-

tract

tract wherein they engaged themſelves and the kingdome never to *conclude or publiſh* any peace untill the peace to be agreed upon betweene the *Nuncius* and *Glamorgan* were concluded and publiſhed together with it. Thirdly, this contract cleerely diſcovers how frivolous that part of the Councell and Committees anſwer to the *Nuncius*. 1. of June, was, wherein they ſay, they expected *untill the firſt of May according the Nuncius his pleaſure before they concluded any peace*; for they were indeed to expect *VNTILL* a concluſion or publication were made of the peace to be agreed upon between him and *Glamorgan* in the behalfe of his *Holyneſſe* and his *Maieſtie*, and if the *Originals* came not from *Rome* by May, they were to expect *untill* the *Nuncius* did *ratifie whatſoever ſhould ſeeme meete unto him &c.* which was agreeable to the publicke Faith
Num. 54. of the kingdome paſt by them unto him before his coming unto the kingdome by the above mentioned Letter ſent unto him in October 1645. wherein they promiſed to doe nothing but what ſhould *ſeeme expedient unto him*. So as if I had timely ſeene this contract, I might well have ſpared the
Num. 26 twelve anſwers I made above to this objection: wherefore the *Nuncius* and the Clergy did juſtly proteſt againſt all their proceedings in the late rejected peace, as being without ground or Commiſſion, and in violation of the publicke Faith given. Fourthly, notwithſtanding this contract they changed the government by concluding that peace, and contrary to the ſame contract they would not dayne to call together a generall aſſembly (as the *Nuncius* deſired and as by this contract they were bound) before they concluded the peace. How herein they may be excuſable, I underſtand not.

§. 20. *The Oath of Aſſociation, which being compared to what we have delivered in this Survay proves the injuſtice of the Clergies Decree of perjury &c.*

„ 59. I *A. B.* doe promiſe, I weare, & proteſt before God & his
„ Saints & his Angels, that I will during my life, beare
„ true faith and allegeance to my Soveraigne Lord *CHARLES*
„ by the grace of God King of great *Brittaine*, *France*, and *Ire-*
land,

fund, and to his Heires and lawfull Successors, and that I will « to my power during my life defend, uphold, and maintayne « all his and their just prerogatives, estate & rights, the power « and priviledge, of the Parliament of this Realme, the *funda-* « *mentall Lawes of* Ireland *the free exercise of the Roman catholicke* « *faith and Religion* throughout this Land, and the lives *just li-* « *berties, possessions, estates, and rights of all those* that have taken, or « shall take this Oath, and performe the contents thereof, and « that I will obey, and ratifye all the orders and decrees made « and to bee made by the Supreme Councell of the Confede- « rate Catholickes of this kingdome concernig the said pu- « blicke cause, and that I will not seeke directly or indirectly, « any pardon or protection for any act don or to be don touch- « ing this Generall cause without the consent of the Major « part of the said Councell, and that I will *not directly or in-* « *directly doe any act or acts that shall preiudice the said cause*, but « will to the hazzard of my life, and estate, assist, prosecute, and « maintayne the same, So helpe me God and his holy Gospel. «

60. This Oath was established for preservation of union among the Confederate Catholickes by act of assembly 26. of Iuly 1644. Where it was declared *full and binding without addition*, & they declared perjured, who affirme the said Oath admits *any equivocation or mentall reservation*. By observing each branch of this Oath every indifferent man may discover, wherein the contrivers of the late rejected peace have violated the same. I may not here insist upon all branches, take (Reader) these few notes onely upon some. First, they have not *maintayned the power and priviledges of the Parliament of Ireland* as well because they wilfully rejected the suspension of *Poynings act*, and resolved nothing for the repeale thereof, as also because they have not established any thing efficatiously to exempt it from any dependency on the Parliament of *England*. Secondly, they have not *maintayned the fundamentall lawes* of the kingdome, chiefly *MAGNA CHARTA*, and those other lawes which are ampliations and explications thereof and sleighted the prosecution of those, who have been, impeached by the whole kingdome for overthrowing the said fundamentall lawes. Thirdly, they have not *defended, upheld*

or maintayned the free exercise of the Roman Catholicke faith and Religion throughout this land, forasmuch as they have concluded a peace without procuring *a repeale of the penall lawes* surreptitiously established since the dayes of heresie against the *free exercise* of the same *Religion*. Which *repeale* was graciously condescended unto by his *Maj.* ty in his letters to his Lord Lieutenant of the 27. of February 1644.

61. This branch of the Oath was corroborated by act of assembly, by our 17. propositions, and by our frequent Declarations, wherein we resolved never to make a peace without the *repeale of these penall lawes*. Whether *Glamorgans* peace were to be deemed valid or invalid, it was their part to presse the Kings Lieutenant to comply with his Majesties command for repealing the penall lawes. The *free exercise* of religion intended by those that tooke that Oath was understood to be somewhat more, than that which we had before these distempers; *Ergo* by the free exercise of Religion. they understood the *free exercise* thereof in Churches, for before these distempers they had the *free exercise* in privat houses, &c. This interpretation is confirmed by the act of assembly, wherein it was unanimously ordered never to restore any the Churches in our possession. By this peace nothing is established to secure us of the *free exercise* of our Religion either in Churches or privat houses, & the governement of our Cities and Garisons together with the command of our Armies is given to the enemies, so as whatsoever the Assembly hath enacted for keeping the churches would be infallibly frustrated, there being nothing to debarre the protestant Ministers to reinvest themselves in the same Churches. Wherefore the Clergy proceeded prudently, when they resolved, that they ought to make a positive act for preservation of their Churches.

See above num. 53.

62. Fourthly, they have not (according to their oath) defended the *possessions estates and rights* of all those that tooke the oath of association, particularly that of their fellow-members the Clergy as above you have heard. As for the provision they have made for the seculars lands and possessions in the fourth article, its certaine the same is in no sort valid, untill it be confirmed

firmed by Parliament, which when it shall be, they doe not know. See our observations on the fourth and fifteenth Article: Fiftly, that the said Councell and Committees have at least *indirectly*, done severall *acts to the prejudice of the cause of God*, is evident by what proofes wee have hetherto produced. So as all things being well pondered, its no lesse evident, that the severall *decrees* given by the clergie against such as contrived, perfected and approved the said peace, is most just and valid: *qui autem superbierit nolens obedire Sacerdotis imperio, qui eo tempore ministrat Domino Deo tuo & decreto Iudicis, morietur homo ille, & auferes malum de Israel.* See above, number 46. What may be pressed against the contrivers of this peace out of the first branch of this oath concerning the allegiance and loyaltie due to our Soveraigne and this commonwealth, wee willingly omit, hoping that God of his mercy will (in his owne time) produce a happy atonement, for the reliefe of this distressed Nation. Deut. 17. 12.

§. 21. *That the Excommunications fulminated by the Lord Nuncius and Ecclesiasticall congregation against such as adhere to the late rejected peace is both just and valide.*

63. We are here to suppose that which faith teacheth us, to wit, that in Gods Church there is power to excommunicate, and that the same power hath beene practised by the Apostles themselves, and their successors, men constituted in Apostolicall jurisdiction. The cause of Excommunication (according the received opinion of Schoole-men, grounded on the Canons) is *deadly sinne*, yea, veniall sinne is a sufficient cause *Excommunicationis Minoris*. In consequence to the foresaid *Decree of perjurie* other decrees were made by the said congregation, and particularly one dated the 17. *Augusti* 1646. impoſing upon such *cities and townes, cessation from Masse and divine office, that would admit the publication of the peace.* On the first day of September following *a comminatorie excommunication* was set forth against those that would *adhere or by any meanes favour the said peace*; but the evill as yet increasing, divisions Matth. 18. 17. 18. 1. Cor. 5. 2 Thess 3. &c TT. in sup. ad q. 21. a. 3.

and factions perpetually multiplying, after severall admonitions, another Excommunication was published the moneth following, wherein I reade thus: *In pursuance of which decrees being forced to unsheath the spirituall sword, wee (to whom God hath given power to binde and loose on earth) &c. doe, cum virtute Domini nostri Iesu, deliver over such persons to Sathan; that is to say we excommunicate, execrat and anathematize all such as after publication of this our decree, and notice either privately or publickely given them hereof, shall defend, adhere to, or approve the justice of the said peace, and chiefely those, who shall beare armes, or make or joyne in warre with, for or in the behalfe of the Puritans or other heretickes of Dublin, Corke, Yoghell, or of other places within this Kingdome, or shall (either by themselves or by their appointment) bring, send or give any aid, succour or relefe of victuals, ammunition or other provision unto them, or by advise or otherwise advance the said peace, or the warre made against us. These and every of them by this present decree we doe declare and pronounce Excommunicated ipso facto, &c.*

65. The cause of this Excommunication (besides the *sinne of perjurie* above mentioned) is *contumacie against* the decrees of holy Chuach; concurrance to the advancement of heresie and suppression of Religion; together with many other causes, which may be collected out of what hetherto wee alleaged. *Sequestrari oportet graviter lapsum* (saith S. Ambrose) *ne modicum fermentum totam massam corrumpat. Cum excommunicat Ecclesia* (saith S. Augustin) *in cœlo ligatur Excommunicatus. Hoc nunc agit in Ecclesia Excommunicatio, quod agebat tunc* (in lege veteri) *interfectio.* Which, I wish, those that *glorie in their malice*, by maintaining still and adhering to the said peace, did reflect on.

L. de pœnit. c. 14. *Tract. 50. in Ioan. & q. 39. in Deut.*

66. Examples of such like Excommunications histories doe record. *Fulke* Archbishop of *Rhemes*, when he had manifested unto the world the turpitude of the peace made by *Charles* the French King with the *Normans*, and the greatnes of the crime, resolutly threatned him with Excommunication, saying, *if you doe that thing* (namely make a peace with the Normans) *and give way to such Councells, you shall never finde me faithfull I will draw backe from your fidelitie all that I may, and with all my fellow-Bishops excommunicating you and all*

Flodoar. l. 4. hist. Rem. c. 5.

yours

yours, I will condemne you with an eternall Anathema. Yet was not this peace, which the French King intended to make with the *Normans* by many degrees so pernicious to Religion, as the late rejected peace was. The like excommunication was actually fulminated by Pope *Iohn* the eight, against the Princes of *Italy*; because they made a peace with the *Saracens*, which peace was indirectly onely prejudiciall to the Catholique faith: *in scelere impio manentibus misèrendum non est*, saith the Pope. The like Excommunication was fulminated by the same Pope for the same cause against the people of *Amalphitan*, unto whom he thus speaketh, *wee together with the consent of all the Apostolique See, doe deprive you of all sacred Communion, and separate you from the Society of Gods Church, that you remaine in the same excommunication untill repenting you separat your selves from the wicked prey of the Pagans. Geoffy* Prince of *Salernitan* upon the like Excommunication being terrified broke off the peace hee had with the *Saracens*, and afterward had the slaughter of many of them; witnes *Leo Ostiensis*. Our Chronicles of England have registred many examples of the like excommunications. See *Conc. Lateran. sub. Innocent. 3: Decreto de hæreticis vide etiam cap. extom. §. credentes de hæreticis. cap noverit de sententia Excommunic. Bullam cœnæ plurib. locis.* Out of all which, those eight Catholique Churchmen in *Dublin* may finde grounds enough to rectifie their opinion, holding, that the *bare adhering to the late rejected peace was not a sufficient cause of Excommunication.*

Io. 8. ep. 41.

id. ep 22.

The resolution of an objection.

67. *Nothing was done* (saith the Authors of the late peace) *by us in the peace now published, but what was exactly agreable to the unanimous sence and vote of the late generall assembly held at Kilkenny in March last, whereof the catholicke Bishops were members and in whose hearing the substance of the peace, as it stands now concluded, was publickely read and transacted.* Whereunto wee answer, First that information is made that some of those articles were changed in substance, particularly the first article,

cle, for manifesting whereof we cannot but referre our selves to those, that were then present in that assembly. Certaine I am the Bishops consented not thereunto, and it is as certaine that the soundest part of the Councell and Committee could never be induced to give their free assent therunto, as above we have noted. Secondly, let us give it for granted that the assembly did assent therunto, was not *Glamorgans* peace then in full force, whereon the kingdome chiefly insisted; Now this peace being revoked and by the Kings Leutenant rejected, who may doubt, but the whole kingdome would renounce the peace agreed upon with the Marquesse of *Ormond* and never trust to that alone. This is evident, seeing they renounced a better peace by his Excellency in August before offered unto them in his briefe of concessions? Wherefore the Councell and Committee upon this alteration (to discharge themselves) should procure a new assembly to be called upon as the Lord Nuncius desired. Thirdly, by that assembly the committee of treaty had no power given them to *conclude*, but to *treate* of a peace. Fourthly, that very generall assembly by publicke contract betweene them, the Lord *Nuncius* and *Glamorgan* decreed the contrary, never to conclude or publish any peace with the Lord Lieutenant, untill the peace agitated between the *Nuncius* and *Glamorgan* were concluded and together with the other published, which is an evident signe, the kingdome never intended to accept of the one peace without the other. Fiftly, the principall part of the body politicke of the kingdome recalled your commission, if any you had and protested against your proceedings. See above §. 10. n. 1. Contrary to all this, you concluded a peace lurkingly, and when you knew the kingdome would not accept thereof, you endevoured to force the same upon them, and to this day doe continue in the same resolution, by making of factions and divisions. You ought to know that the *non acceptance* thereof did render the same invalid, *Leges nulla ex alia causa nos tenere, quam quod iudicio populi receptæ sunt.*

Log. 32. ff. de legibus.

A briefe

A briefe appendix concerning the Earle of Glamorgans peace, and his Excellency the Marques of Clanrickards Engagement.

68. In both three things are chiefely to be considered, first the concessions or graces granted unto the confederate Catholiques. 2. The grounds whereon they are granted, and the securitie for performance. 3. The parties betweene whom the contract passed. As concerning the first, by the Earle of *Glamorgans* peace there is granted unto the confederate Catholiques *for evermore hereafter free and publicke exercise of their Religion; all the Churches, other than such as are now actually enjoyed by his Majesties Protestant Subjects, exemption from the Iurisdiction of the Protestant Clergie; a repeale of all the penall lawes; the taking away of all incapacities; that the Catholique Clergie shall have their Church-livings, &c.* By the Marques of *Clanrickards* engagement wee are not granted, but a *promise* is made by his Excellencie to *procure a revocation of the lawes in force in this Kingdome*, not absolutly, as the King himselfe by his letter of the 27. of Februasy 1644. and his Commissioner, the Earle of *Glamorgan*, granted, but restrictively, *inasmuch as shall concerne any penaltie, inhibition or restraint upon Catholicks for the free exercise of their Religion.* The inconveniences, which may befall the Catholiques by this Restriction is amply discovered by the late councell and Congregation, and in some sort by me in the first part of this Survey, whereunto I remit the Reader. And this is that kinde of repeale, which the Marques of *Ormond* himselfe once granted unto the confederate Catholiques in his *briefe of Concessions*, but afterward fell backe from his word; and by this engagement of *Clanrickard* hee obligeth himselfe to nothing.

Observat. on the first art. pag.

69. Here, before I goe further, I must appeale to the confederate Catholiques conscience, whether he had rather have the subjects *promise* to *procure* (forsooth) a kinde of *repeale of the penall lawes*; or the Kings own word actually commanding a repeale of the said penall lawes absolutely, as he hath done not onely by himselfe immediately, but also by his speciall commissiones

commissioner the Earle of *Glamorgan*? Then the confederate Catholique is to make this ratiocination, if the Kings owne commands could take no effect with his Protestant Ministers of justice in *Dublin* (such an aversion have they against the distressed Catholiques) much lesse will any subjects *promise* be able to procure any thing for us, or (having procured it) be able to bring it to any effect. What need wee runne to France or elsewhere to procure that which his Majestie hath already granted us? There are the Kings owne commands to repeale the penall lawes: can any one procure us more? What is the let? the subjects disobedience, who will not put in execution the Kings commands. And how may the Marques of *Clanrickard* procure any thing in France, when as the French Agent here pleadeth strongly for the acceptation of *Ormonds* unjust and invalide peace, and never vouchsafeth to sollicit for *Glamorgans* just and valide peace?

70. The second thing promised by the Marques of *Clanrickard* is, that the Catholiques *shall not be disturbed in the enjoyment of their Churches or any other Ecclesiasticall possessions untill that matters with others referred already, receive a settlement in a free parliament, &c.* Though this be but a promise, yet were it actually procured, must not wee be cast out of our Churches and possessions, whensoever *this settlement shall be in a free Parliament*? for *untill* then: and no longer are wee to hold possession: by *Glamorgans* peace these are actually granted us *for ever*. By *Clanrickards* engagement we are onely promised that we shall enjoy the *Churches & possessions that were in our hands at the publication of the late peace*. By *Glamorgans* peace these are not promised but actually granted unto us, and with all *other Churches, lands, tenements, tithes and hereditaments, other then such as are now* (when that peace was concluded) *actually enjoyed by his Majesties Protestant clergie or subjects*. So as, in case, God should blesse the confederate Catholiques with such victories against *Inisequin* and the rest of the Rebells in Mounster, and Vlster, as hee blessed us in Connaght, by *Glamorgans* peace all the Churches, and Ecclesiasticall lands, &c: must fall unto the Catholique Clergie; by *Clanrickards* engagement they must fall unto the Protestant clergie; so as all our

But warre for the future should be to raise that Sect, and by raising them, to suppresse our selves: which being once knowne to forren Princes and Prelats, they would subtract all their helpes from us; and the Catholique subjects at home would (with good reason) withdraw both arme, heart and meanes from such a warre.

71. By the same engagement there shall be forth with a *Catholicke Lieutenant generall, &c.* If he be sworne to the Catholicke confederacie, & approved by the kingdome, its well. Such an one was granted unto us long since by his Majestie; how he was put off, let them judge, who know best the state of that affaires. All *incapacities* are taken away from the Catholickes by *Glamorgans* peace, &c. what then should hinder us to have a catholicke Vice-Roy, which is said to have been also granted unto us by his Majesty. Item our *Generals shalbe invested with principall commands worthy of them &c.* These *principall commands* being not specified, may be interpreted a *Colonels place*, which indeed (respectively) is a *principall place*. That they be *invested in some important Garisons NOVV under his Maiesties obedience* suffers the like interpretation, and gives warning to Noble *Preston*, that he must out of *Duncanon*; for they will affirme that that garison is not *under his Maiesties obedience*, but under the Confederate catholickes obedience. Further by the engagement is is said, that a *Considerable number of the Catholicke Confederats forces shall immediatly be drawne into all the chiefe garisons under his Maiesties obedience.* This concession is good, if it were performed; but because herein the Marquesse of *Ormond* fayled, therefore Noble *Preston* retyred, and freed himselfe from the engagement. If it were granted that a *proportionible number should be drawne unto, &c.* 't were more secure, for otherwise our catholicke forces being farre lesse in number, than the protestant forces, would be subject to massacre. But the clauses inserted in the Protestation made or to be made by the generals and commanders upon acceptance of this engagements marres all the market, and would frustrate our forces of all their pretensions, and the catholicke confederats, of *Glamorgans* peace. These clauses I commit not to the Print, because I have no order so to doe.

72. Now to come to the second thing, which is to be considered. *Glamorgans* peace is grounded on the Kings Commission dated the 12. of March, where his Majesty authoriseth him *as firmely as under the great Seale to all intents & purposes*; & obligeth himselfe *in the word of a King, and a Christian to ratifie and performe* what he should grant to the Confederate Catholickes. His Excellency the Marquesse of *Clanrikards* engagement is grounded on no such Commission, he onely voluntarily engageth himselfe without any invitation of the confederate catholicks, and is assumed, as an instrument by those, who would crosse his Majesties foregoing grants made unto the catholickes, who may reasonably thus discourse with themselves: if those men have frustrated his Majesties owne grants and the peace by his commission concluded, how much more will they frustrate the engagements of any private subject, which are grounded on nothing but on his own undertakings, and in case of non performance the catholicke confederats have no redresse. Neyther doth the Kings Lieutenant himselfe oblige himselfe to the performance of any thing, nay rather this engagement supposeth his opposition to some things. To conclude (omitting much more) the parties, who concluded *Glamorgans* peace, have beene authorized by King and countrey; the parties concluding *Clanrikards* engagement have beene authorized by neyther; and therefore invalid and to no effect. Out of which, and what alreadie hath beene answered by the councell and congregation 24. Novemb. 1646. it is evident how farre those nine catholicke church-men of *Dublin* erred in their judgement, when unto a question propounded unto them touching this matter, they answered, *that the Roman Confederate catholickes of this kingdome may without scruple submit to the* late rejected *peace and accept thereof as strengthned with the said additionall engagements*. Neyther can it avayle them to adde (*the circumstances of times and present state of this distressed kingdome considered*) seeing we had better conditions from his Majesty himselfe, when we were in a worse posture, & we were never in a better posture, then we were when this engagement was offered, if mischievous faction had not put a division among us. *Veruntamen, ea illa*

pag.

per quem ſcandalum venit. If the rejected peace with theſe additionall engagements could be accepted without ſcruple, I believe the Councell and Congregation could judge better thereof, than any privat men, who were not in a free condition to deliver the ſenſe of their ſoules. *Ecce prædico vobis libertatem, ait Dominus, ad gladium, ad peſtem, ad famem.* Ierm. 34 17.

The Epilogue.

THus by the Divine aſſiſtance (Iudicious Reader) I have finiſhed both parts of this Survey; to God be honour and glory, who is the Author of all good things. In matters of fact, that are tranſacted with much ſecrecy, its very hard to produce demonſtrative arguments to convince the actors, & when ſuch matters trench upon the honeſty and integrity of men, *things doubtfull are*, regularly *to be interpreted to the beſt ſence*; but if ſuch tranſactions be juſtly ſuſpected to tend to the ruine of Religion, deſtruction of Common-wealth, and hazard of Gods people, *it is not onely expedient, but oft entimes neceſſary, that things*, though *doubtfull* and not evident, *per modum cautelæ & remedij, be interpreted in the worſe ſence*, ſay the Schoolemen. In both parts of this Survey, I am perſwaded, I have produced ſolid demonſtrations to prove the principall conclusions by me handled; it in ſome acceſſories, which follow the principals, I have onely produced probable arguments, or reaſons grounded on violent preſumption, or juſt conjectures, I am not therefore to be reprehended, becauſe in matters, which may prejudice our Religion, and hazard our lives, fortunes, and eſtates, we may make uſe even of arguments, of the truth whereof there may be ſome doubts or ſuſpicion; with how much more reaſon may we make uſe of arguments, which carry with them ſome probability; becauſe they are alleaged *per modum Cautelæ &c.* to prevent the ſuſpected. If one were impeached of high Treaſon, to convict him, it were enough to prove one article of the 24. What I have written in this ſecond part concerning the Marqueſſe of *Antrims* conjunction with Generall *Leſly*, as it was recei-

Cajetan. Salon. Aragon. Ban. apud Tanto. 3. diſput. 4. q. 3. dub 3. nu. 57. 58. ex S. Tho. 22. q. 60. a. 4.

ved from the forge of fables in *Dublin*, to it appeares fabulous; such like discourses, which are accessories to the principall, as they occurre, repute them as Apochrypha. In the prosecution of this worke I have not preoccupated all the objections my adversaries could make, some I have reserved for a reply if any encounter me. Those that ought to stand at the barre to be judged by this worke, must not sit on the bench to give judgement against it; I have other Iudges of more indifferency unto whose cognizance such censures doe properly belong: yet if it shall please God to reunite the hearts of the Confederate Catholicks together *in the bond of charity*, I shalbe willing by a sweet supplement to wipe away all distasts and jealousies. *Of two evils the least is to be chosen*: if the clergy forbeare the discovery of those truthes, which may touch the reputation of a few particulars, then must the reputation of all the confederate catholicks of *Ireland* necessarily suffer detriment among all forren Nations abroad, because without any necessitie they consented to so unjust a peace. If the clergie had beene silent, then (to save the credit of a few private persons) they had hazarded their owne credit, and lunke in the heroicke enterprise by them attempted for defence of Religion, King and country: neither had the confederate catholiques been so truly informed of the nature and condition of the said rejected Peace, had consequently they had beene ignorant of their owne miserie. Those good Gentlemen, who have herein manifested their affection to the Marques of *Ormond*, have not beene so well recompenced by his Excellency, as they deserve; for in his treatie with the Parliament, he was carefull to provide for the securitie of all the Protestants in *Ireland*, but neglected to provide for the securitie, either of those Gentlemen, or of other his deerest catholique friends and neerest alliance. *Maledictus homo, qui confidit in homine.*

Ierem. 17. 5.

74. The ill-affected doe ordinarily calumniate the clergie, charging them with an inordinate desire to obtaine the possession of their church-livings. To omit many answers to this calumny; these seculars, that vent it, ought rather to thanke the clergie; because their owne children (if they become church-men) will questionlesse reape the fruit of the

clergies

clergies labour. And in my judgment, it had been a great joy unto them to see their owne children raised to the height of church-dignity, and thereby enabled to helpe themselves and helpe their friends, whereas otherwise (while hereticks possessed all) they might be forced to beg their bread. *Det patientia & solatij det vobis id ipsum sapere in alterutrum secundum IESVM CHRISTVM, ut unanimes uno ore honorificetis Deum & Patrem Domini nostri IESV CHRISTI.* Rom. 15. 5.

75. A Quere was made, how it stood with the Oath of Association, that the late Councell should give orders unto Generall *Preston*, a sworne Confederat catholicke, to obey the commands of his Excellency the Marqueese of *Clanrikard*, & to deliver unto his command and possession (being not of our union, or sworne to the catholicke Confederacy) such Castles, Forts, & Garisons, as he tooke in in *Connaght*, by which meanes (if God shall not unite his Excellency to our Confederacy) we are like to be at asmuch trouble to recover them out of his hands, as we were to recover them from the enemy. Whereunto I can make no answer, but doe humbly referre the discussion thereof unto this Catholicke and generall assembly. I have often admired, to see so many by-wayes taken, so many factions raysed, and so many sollicitors imployed, even by Catholickes (but Catholickes poysoned by the contagious infusions of our adversaries) to procure the acceptation of *Ormonds* peace, though destructive to the Catholicke Fath; and none of them speakes for the maintayning of *Glamorgans* peace, though it tend principally to reparation and conservation of the catholicke Faith. *Mysterium absconditum.*

76. I heare, I am traduced (but by an interessed Lawyer) to have alleaged some statute or other in the first part of this Survey, as if the same *was not* [repealed which *indeed was repealed.* What this statute might be, I doe not well know, only I conjecture, that it is the statute of 28. *Hen.* 8. which I cited in the first part *pag.* 3. & 4. touching which I have had conference with some learned Lawyers, who could never shew me upon any authenticke record the repeale of that statute;

tute or other in the first part of this Survey, as if the same *were not repealed* which indeed *was repealed*. What this statute might be I doe not well know, onely I conjecture, that it is the statut of 28. *Henry* the 8. which I cited in the first part pag. 3. and 4. touching which I had conference with some learned Lawyers, who could never shew me upon any authenticke Record the repeale of that statut, for which cause, and for other reasons which here I must omit, I was encouraged to cite that statut. The collector of the *Irish* statutes hath not followed the methode of the Collector of the *English* statutes, who carefully at the conclusion of each statute repealed or revived, informed his Reader, when & where such a statute was repealed or revived, yet he tels us in his Epistle Dedicatory, that he hath printed onely such statutes as were *formerly printed and not expresly repealed*, and among some statutes repealed, whereof mention is made in the Collection of the *Irish* statutes I finde not this mentioned. It is true, that 3. and 4. *Philip* and *Mary*, this statute and all other statutes enacted by *Henry* the 8. against the See Apostolicke, and the Supreme power thereof, were repealed, though the statutes of such repeales were not recorded among the rest of the *Irish* statutes, which some attribut to the corruption of the collector, yet were the same statutes all revived, confirmed and amplyfyed in the second yeare of Queene *Elizabeths* raigne, where expresse mention is made of the statutes of the foresaid 28. yeare of *Henry* the 8. and not onely the grievances by me alleaged out of the same statute, but also the Oath of Supremacy there established, iterated and confirmed by the statute of 2. *Eliz.* so farre is it from truth, that the foresaid statute was & remaineth repealed. Which our learned Lawyers that penned our declarations and remonstrances foreseing, were therfore carefull to demand that not only the *the act of 2. Eliz. in Ireland*, but also *all other acts made against Catholick Religion since the 20. yeare of Henry the 8.* should *be repealed*, wherein they suppose the said statuts of *Hen.* 8. to be in force; accordingly the first of our 17. propositions, wherein we demanded a repeale of al penal lawes, was propounded in general tearmes abstracting from the statut of 2. *Elizab.* and all other statuts.

Fol. 67. 427. 429.

Irish statuts pag. 260.

Declar. printed in France p. 8. n. 6.

Our

Our Committee of the treatie should have followed their Instructions in this particular, and not limit the revocation of the Oath of Supremacy to that Oath of 2. *Eliz.* knowing right-well, that the other Oath of 28. *Hen.* 8. is extant in the printed Irish statute, but the repeale thereof no where (that I could find) extant. It were more honourable for this good Lawyer, to take pen in hand (if his joynts be not too stiffe) and refute this Survey, than to raile against the Author at other mens Table: *remove a te os pravum, & detrahentia labia sint procul a te.* Prov. 4. 24.

I conclude with the Apostles advise, *I beseech you brethren, marke them diligently, which cause division, and offences, contrary to the doctrine which you have* here *learned, and avoyde them. For they that are such, serve not the Lord IESVS CHRIST, but their owne bellyes, and with faire speeches and flattering deceive the hearts of the simple.* Rom. 16. 16. 17. 18.

Laus Deo Deiparaque.

Omnia S. R. Ecclesiæ & Congregationis utriusque Cleri Hibernici judicio subjecta sunto.

FINIS.

CAMBRIDGE 1926 THEOLOGICAL LIBRARY

Errata secundæ partis.

PAg. 11. lin. 23. for where, reade *whence*. pag. 13. lin. *he*, is omited, p. 17. lin. 21. for can reade *and*, p. 25. lin. 31. reade *ontayneth*, p. 26. lin. penult. for iu reade *in*, p. 36. lin. 24. who, eade *which*, pag. 44. lin. 24. reade *insufficient*, pag. 56. lin. 26. reade *Protestants*, p. 66. lin. 64. reade *Religion*, p. 79. l. 2. for 14000. l'. reade 13000. l'. p. 86. lin. 14. reade *yeelded* ibid. lin. 31. reade *Churches*, *yeelded*, pag. 94. lin. 1. reade *disease*, pag. lin. 3. 97. reade *in*.